CONGRESSIONAL DIGEST

The Pro and Con Monthly

June-July, 1933

Proposed Suspension of the Anti-trust Laws

History and Provisions of the Sherman, Clayton and Federal Trade Commission Acts

The New Industrial Recovery Bill

Pro and Con Discussion: Is Industrial Recovery Dependent Upon Suspension of the Anti-trust Laws

Progress of Major Legislation in Congress

All Regular Features

WASHINGTON, D.C.

FIFTY CENTS A COPY

The Congressional Digest

The Pro and Con Monthly

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NORBORNE T. N. ROBINSON
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Editorial Offices
Munsey Building, Washington, D. C.

Published Every Month, except for July and August. Current Subscription Rates: $5.00 a Year, Postpaid in U. S.; in Canada $5.25; Foreign Rates $5.50; Current Numbers 50c a copy; Back Numbers 75c a copy; Special Rates in quantity lots (see inside back cover); Volumes Bound, $7.50; Unbound, $6.00. Address all Orders and Correspondence to:

THE CONGRESSIONAL DIGEST
Munsey Building,
Washington, D. C.

Entered as Second-Class Matter September 26th, 1921, at the Post Office at Washington, D. C., under the Act of March 3, 1879. Additional entry as Second-Class Matter at the Post Office at Baltimore, Maryland, under the Act of March 3, 1879; authorized August 22, 1927.

Contents this Month

THE CONGRESSIONAL DIGEST is Indexed in the Readers' Guide

The

Congressional Digest

Vol. XII Nos. 6-7

June-July, 1933

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Proposed Suspension of the Anti-trust Laws

Foreword

For several years bills have been before both houses of Congress providing for the modification of the Federal Anti-trust Laws. These measures originated, for the most part, with business and labor organizations whose thought was, and is, that, while correct in their original purpose, the Anti-trust Laws have been outgrown by the natural development of economic conditions throughout the United States, and are today, in some of their aspects, an actual detriment to economic progress.

The proposal to modify the Anti-trust Laws has been the subject of desultory discussion before Congressional committees during hearings on other pieces of legislation from time to time, but, up to the meeting of the present Congress in March, no actual legislative progress had been made.

The question came to a direct issue when President Roosevelt appealed to Congress for the immediate passage of his Industrial Recovery Bill. The Anti-trust Laws were fundamentally involved in the President's recovery program and in considering the legislation necessary to put that program into operation, Congress found itself faced with making a major decision on the Anti-trust Law problem.

In the Industry Recovery bill, H. R. 5755, there are three distinct provisions. First, the provisions authorizing trade agreements in industry to bring about stable conditions as to costs of materials, wages and selling prices. Second, the provision for the expenditure by the Government of $3,300,000,000 on public works as an aid to employment. Third, the levying of taxes to raise the funds necessary for the public works program.

It is in conection with the first section that the problem of the Anti-trust Law appears. Under this section groups of industries are authorized to set up a code to include prices, production, wages, hours of labor and general methods of doing business, and to compel all producers in their line of business to abide by this code, provided the code is approved by the President, or through his authorized representative, the head of the industrial control bureau which will be set up under the act.

If a manufacturer or a minority group of manufacturers decline to go into the agreement, he or they are to be controlled by what is known as the "licensing provision" of the pending bill. Under this provision, those subscribing to the code of standards will receive Government licenses. From those who do not subscribe these licenses will be withheld.

Obviously, this arrangement is illegal under the provisions of the existing Anti-trust Laws. Therefore, when the bill was framed, a provision was included providing that the operations of those trade groups subscribing to the proposed codes should, for a period of two years, be exempted from the provisions of the Anti-trust Laws.

The original object of the Anti-trust measures was to protect the small producer against big combinations. The present complaint against these laws is that they prevent harmless cooperation among producers in a given industry for stabilizing production and distribution, maintaining a fair wage scale and the selling of products at a price that will keep the industry alive.

By the licensing authority, described by administration spokesmen as "the club behind the door"—recalcitrant producers, who refuse to abide by the code, and who might, by cut-throat methods endanger the whole fabric of industrial stability, are to be brought to terms by a refusal to grant them Government licenses.

Thus, where the Anti-trust Laws were enacted to protect individual producers from unfair practices on the part of combinations or trusts, the licensing provision of the Industrial Recovery Bill is designed to protect the majority of an industry against any actions on the part of an individual which would be considered unfair under the majority-adopted code of practices for that industry.

The Industrial Recovery bill was passed by the House on May 26 by a vote of 325 to 76. When the bill reached the Senate it was referred to the Committee on Finance.

On June 2 that committee, by a vote of 12 to 7, struck out of the bill the licensing provision but, subsequently reversed its position and restored it, but with the proviso that it be operative for one year instead of two, as provided in the House bill.

President Roosevelt sent word to Democratic Senators that he considered the licensing provision absolutely essential, since, without it, independent producers would be able to wreck the entire recovery program he has in mind.

In presenting a discussion of the bill in relation to the Anti-trust Laws, the Digest deals only with the Industrial Control features. The Public works feature and the Tax feature are dealt with under their respective headings in the department devoted to Progress Made by Major Legislation, beginning on Page 182.

High Lights in the History of the Anti-trust Laws

1884

THE Democratic party and minor political parties inserted planks in their platforms denouncing monopolies and pools and demanding corrective action. For several years following monopolies were the subject of much public discussion and were dealt with in the platforms of all political parties. (See p. 178.)

1889

SENATOR John Sherman, Republican, Ohio, introduced the first draft of the bill (S. 1, 51st Cong., 1st sess.) which later became known as the Sherman Anti-trust Act. The first draft was worked over by Senator George F. Hoar, Republican, Massachusetts, the changes made by Senator Hoar being approved by Senator Sherman.

1890

THE Sherman bill, "A bill to declare unlawful trusts and combinations in restraint of trade and production," was passed by Congress with but one opposing vote in either house, and approved by President Harrison on July 2.

1906

IN his annual message to Congress President Theodore Roosevelt recommended generally that additional legislation be passed to impose Government control upon great corporations engaged in interstate commerce.

1907

IN his annual message to Congress in December, President Theodore Roosevelt wrote:

"The (Sherman) Anti-trust Law should not be repealed; but it should be made both more efficient and more in harmony with actual conditions. It should be so amended as to forbid only the kind of combination which does harm to the general public, such amendment to be accompanied by, or to be an incident of, a grant of supervisory power to the Government over these big concerns engaged in interstate business."

1895

THE Supreme Court held in the case of the U. S. v. S. C. Knight Co., that, in the absence of any evidence to show a concerted control of the movement and prices of sugar in interstate commerce, it could not be judicially inferred that the consolidation of four Pennsylvania sugar refineries constituted a restraint of commerce. The case arose from the acquisition by the American Sugar Refining Company of four independent refineries in Pennsylvania. These factories, added to those already controlled by the American Sugar Refining Company, gave that company virtual control over all the sugar refineries in the United States.

In writing of this decision while he was Professor of Law at Yale University in 1914, former President Taft said its effect upon the opinion of the public and Congress was to discourage hope that the Sherman Anti-trust Act could be effectively used to accomplish its manifest purpose to prevent monopolistic corporations from controlling prices by the acquisition of plants and restricting production.

1898

THE Addyston Pipe Case was decided by the U. S. Supreme Court. In this case, iron pipe companies in the Ohio and Mississippi Valley entered into an agreement to maintain prices and share profits. No party in the agreement was to sell to an intending purchaser without permission of the combination, after there had been secret bidding within the combination to see which member would make the bid which would produce the best profit to be divided among all the Members.

The Circuit Court of Appeals held that, as a large part of the sales to be made involved the shipment of the product in interstate commerce, the combination was operating in restraint of trade within the meaning of the Anti-trust Act. The Supreme Court unanimously affirmed the judgment of the Circuit Court of Appeals and issued an injunction.

1904

THE Northern Securities Case was decided by the Supreme Court. This case involved an agreement between the owners of a majority of the stock in the Great Northern Railroad and the Northern Pacific Railroad to unite their interests in a holding company to take over possession, not only of the stock of these two roads, but also the stock of the Chicago, Burlington and Quincy Railway Company. It was contended by the railroads that since the Northern Securities Company was a state-chartered company, authorized to hold stock in other railroads, it was not within the powers of Congress to interfere with the acquisition of such property; that the transfer of property was preliminary to interstate commerce and did not directly affect it and there was nothing to show in the operation of the roads and the fixing of rates that any restraint had been put upon either.

The Supreme Court held, however, that what the whole arrangement amounted to was an arrangement among the actual controllers of the properties of the three great railroad systems to operate them as one system and thus

acquire power to avoid competition and monopolize interstate railroad transportation in a large section of the United States.

Whereas the decision in the Addyston Pipe Case had made clear the application of the statute to restraint of trade by combination covering sales in interstate commerce, the decision in the Northern Securities case laid down the rule that courts might imply the intuition and purpose of such a combination, from its necessary effect, to monopolize and control, and, therefore, might enjoin its consumnation before actual execution occurred.

1905

The Meat Packers Trust Case was decided by the Supreme Court. It was charged that a dominant proportion of dealers in fresh meats throughout the United States with maintaining a combination not to bid against one another in the live stock markets at Chicago, and East St. Louis, Ill.; Omaha, Nebr.; St. Joseph, Mo.; Kansas City, Kans.; and St. Paul, Minn.; to bid up prices for a few days in order to induce cattlemen to send their stock to given stockyards; to fix selling prices and thus restrict shipments of meat when desired; to establish uniform credit to dealers and maintain a block list; to make uniform and improper charges to cartage; and to obtain less than lawful rates from railroads, to the exclusion of their competitors, with the intent to monopolize commerce between the states and to prevent competition.

The packers maintained that the purchase of cattle under the arrangement was, in all cases, an intrastate matter and that, therefore, the Anti-trust Law, directed to interstate commerce, did not apply. The Supreme Court held, however, that the original purchase of cattle within a state was merely the first step toward their subsequent shipment for sale, interstate, and that "when this is a typical, constantly recurring course, the current thus existing is a current of commerce within the states, and the purchase of the cattle is a part and incident of such commerce"; and "Although the combination alleged embraces restraint and monopoly of trade within a single state, its effect upon commerce among the states is not accidental, secondary, remote, or merely possible. It is a direct object, it is that for the sake of which the several specific acts and courses of conduct are done and adopted."

1911

The Supreme Court decided the Standard Oil Company case in holding that the Standard Oil Company, as then organized, was existing in violation of the Anti-trust Law, the court stated:

"The unification of power and control over a commodity such as petroleum, and its products, by combining in one corporation the stocks of many other corporations, aggregating a vast capital gives rise, of itself, to the *prima facie* presumption of an intent and purpose to dominate the industry connected with, and gain perpetual control of the movement of that commodity and its products in the channels of interstate commerce in violation of the Anti-trust Act of 1890, and that presumption is made conclusive by proof of specific acts such as those in the record of this case."

It was in the Standard Oil Case decision that the famous "rule of reason" principle was enunciated by the Supreme Court.

1912

In his campaign speeches, Woodrow Wilson, as Democratic nominee for President contended that trusts do not grow naturally, but are created to avoid competitions; are vulnerable to competition unless they can defeat their smaller competitors by unfair practices and that further legislation was necessary to prevent such unfair competition.

1913

Bills were introduced in Congress to carry out the recommendations by President Wilson for further Anti-trust Legislation as originally outlined in his campaign speeches.

1914

On September 24 the Federal Trade Commission Act was approved.

On October 15 the Clayton Act was approved. The Clayton Act was subsequently amended by Acts approved May 15, 1916; May 26, 1920, and March 9, 1928.

Trust » »

A business organization or combination consisting of a number of firms or corporations operating, and often united, under an agreement creating a trust, one formed mainly for the purpose of regulating the supply and price of commodities, etc.; often, opprobriously, a combination formed for the purpose of controlling or monopolizing a trade, industry, or business, by doing acts in restraint of trade; as, a sugar trust. A trust may take the form of a corporation or a body of persons or corporations acting together by mutual arrangement, as under a contract or a so-called gentlemen's agreement. When it consists of corporations it may be effected by putting a majority of their stock either in the hands of a board of trustees (whence a name trust for the combination) or by transferring a majority to a holding company. The advantages of a trust are partly due to the economies made possible in carrying on a large business, as well as the doing away with competition. **Webster's New International Dictionary.**

The Anti-trust Laws of The United States

The Sherman Act

THE act known as the Sherman Anti-trust Act contains the embodiment of the law upon the subject of unlawful restraint of trade and monopolies.

The statute was enacted for the purpose of protecting trade and commerce among the several states and the foreign nations from unlawful restraints and monopolies, to maintain free competition in such commerce; to prevent undue interference with the free exercise of their rights by those engaged or who wish to engage in trade and commerce—to preserve the right of freedom of trade; to secure equality of opportunity and to protect the public against evils commonly incident to monopolies and those abnormal contracts and combinations which tend directly to suppress competition; and to make certain and specific the application to interstate commerce of the common-law rule relating to contracts and combinations in restraint of trade and monopolies and to impose penalties for a violation of the statutes.

The statute makes monopolies or combinations in restraint of interstate trade or commerce criminally punishable and also gives a right of action for threefold damages to those injured thereby. On the other hand it was not the purpose or intent of the statute to inhibit the intelligent conduct of business operations, or to prohibit or to render illegal the ordinary contracts or combinations of manufacturers, merchants, and traders, or the usual devices to which they resort to promote the success of their business, to enhance their trade and to make their occupations gainful, so long as those combinations and devices do not necessarily have a direct and substantial effect to restrict competition in commerce among the states. In the absence of a purpose to monopolize or of compulsion that results from contract or agreement the individual may exercise great freedom. So also it is not the purpose of the statue to restrain one monopoly and thereby promote, strengthen, and build up another.

Validity of the Statute

It was either held or said in the early decisions that the statute was to be literally interpreted, and in consequence all contracts or combinations in restraint of interstate trade or commerce were within the prohibition of the statute whether reasonable or not. However, this view was expressly repudiated in later decisions of the United States supreme court in which the so-called "rule of reason" doctrine was declared. The operation and effect of this doctrine is simply that the test to determine whether or not a given contract or combination is in restraint of interstate or foreign trade or commerce is the standard of reason as applied to like contracts or combinations at common law; and the result of such construction is that the statute does not prohibit contracts or combinations in reasonable restraint of interstate trade or commerce. Nevertheless, where the necessary effect of an agreement is clearly in restraint of interstate trade within the condemnation of the statute, it cannot be taken outside of the category of the unlawful by general reasoning as to its expediency or nonexpediency, or the wisdom or want of wisdom of the statute.

Acts Prohibited by Statute

The statute broadly condemns all contracts, combinations, and conspiracies which restrain the free and natural flow of trade in interstate commerce or commerce with foreign nations, or restrict in that regard the liberty of a trader to engage in business, regardless of the form which the contracts, combinations, or conspiracies may assume; and it includes not only voluntary restraints where persons agree to suppress competition among themselves, but also involuntary restraints where persons conspire to compel action by others. Speaking more specifically, sections one and two of the act refer to and make illegal two different things although closely allied; Section one makes illegal combinations in restraint of interstate trade and commerce; and section two makes illegal combinations or conspiracies to monopolize or to attempt to monopolize interstate trade and commerce, and the words "to monopolize" and "monopolize" as used in the second section reach every act bringing about the prohibited results. The second section is intended to supplement the first and to make sure that by no possible guise could the public policy embodied in the first section be frustrated or evaded. In other words, "having by the first section forbidden all means of monopolizing trade, that is, unduly restraining it by means of every contract, combination, etc., the second section seeks, if possible, to make the prohibitions of the act all the more complete and perfect by embracing all attempts to reach the end prohibited by the first section, that is, restraints of trade, by any attempt to monopolize, or monopolization thereof, even though the acts by which such results are attempted to be brought about or are brought about are not embraced within the general enumeration of the first section."

The Clayton Act

The so-called Clayton Act, in so far as it makes it unlawful for any person engaged in commerce, in the course of such commerce, to lease or sell goods, machinery, etc., on any condition, agreement, or understanding that the lessee or purchaser shall not use or deal in goods or machinery of a competitor of the lessor or seller, where the effect may be substantially to lessen competition or tend to create a monopoly, as applied to leases made in the conduct of interstate business, is within the constitutional power of Congress; and the prohibition of clauses in leases of patented machinery which substantially lessen competition and tend to promote monopoly, by prohibiting the use of the leased machinery on shoes on which other operations have not been performed by defendants' machines, is not unconstitutional. It has been held, however, that

in so far as this statute undertakes to give one charged with contempt of court by a willful violation of an injunction duly issued by the court a right of trial by a jury, it so abridges the inherent power of the court to punish for such contempt that it materially impairs it and is in that respect nugatory.

Sherman and Clayton Acts Compared

The Clayton Act and the Sherman Anti-trust Act are separate acts and remain so in spite of certain clauses of the Clayton Act which refer to both. The Clayton Act was intended to supplement the purpose and effect of other Anti-trust Legislation, principally the Sherman Anti-trust Act, and to determine their legality by specific tests of its own. As the Sherman Act was usually administered, when a case was made out, it resulted in a decree dissolving the combination, sometimes with unsatisfactory results so far as the purpose to maintain free competition was concerned. The Clayton Act was intended as a preventive act to reach the agreements embraced within its sphere in their incipiency. Nevertheless, in thus avoiding an objectionable effect by removing the cause, Congress did not intend the statute to reach every remote lessening of competition or every dim and uncertain tendency to monopolize. It intended rather that the commission, and ultimately the courts, should inquire not whether a given practice may possibly lessen competition or possibly create a monopoly, but whether it probably lessens competition, and lessens it substantially, and whether it actually tends to create a monopoly. That part of the statute which prohibits a corporation from acquiring stock in a competing corporation, where the effect is to reduce competition between them is remedial and not punitive, and the sole purpose of a valid order of the federal trade commission must be to remedy the unlawful situation.

The Federal Trade Commission Act

The Federal Trade Commission Act was enacted to supplement previous Anti-trust Legislation, and prevent unfair methods of competition in interstate commerce. For this purpose the statute vests the commission with power to compel the discontinuance of unfair methods of competition, and to advance the public interest by securing fair opportunity for the play of the contending forces ordinarily engendered by an honest desire for gain. This, however, is the limit of the power conferred on the commission. It has no general authority to compel competitors to a common level, to interfere with ordinary business methods, or to prescribe arbitrary standards for those engaged in the conflict for advantage called "competition." Under the statute the individual retains the right to exercise reasonable discretion in respect of his own business methods, it being essential that those who adventure their time, skill, and capital should have large freedom of action in the conduct of their own affairs. The act was not intended to fetter free and fair competition as commonly understood and practiced by honorable opponents in trade. The words "unfair method of competition" are clearly inapplicable to practices never heretofore regarded as opposed to good morals because characterized by deception, bad faith, fraud or oppression, or as against public policy because of their dangerous tendency unduly to hinder competition or create monopoly.—*Extracts, see 1, p. 192.*

The Industrial Recovery Bill and the Anti-trust Laws

On May 17 President Roosevelt sent to Congress a special message recommending the immediate passage of a bill for nation-wide cooperation for the rehabilitation of industry. His recommendations were embodied in identical bills introduced in the House by Representative Robert L. Doughton, N. C., D., Chairman of the Committee on Ways and Means, (H. R. 5755) and in the Senate by Senator Robert F. Wagner, N. Y., D., (S. 1712). After two days hearing the House bill was reported by the Committee on ways and Means on May 23 and was passed by the House on May 26, upon reaching the Senate the bill was referred to the Committee on Finance.

The National Industrial Control bill contains three major provisions: Title I provides for a program of industrial control for the operation of which a suspension for two years of certain of the provisions of the existing Anti-trust Laws is necessary, Title II provides for a public works program to increase employment, Title III provides tax levies to produce the money necessary for the operations of the bill.

That section of the President's Message of May 17 dealing with the proposed suspension of the Anti-trust Laws follows:

President Roosevelt's Recommendations

To the Congress:

Before the special session of the Congress adjourns, I recommend two further steps in our national campaign to put people to work.

My first request is that: 1. The Congress provide for the machinery necessary for a great cooperative movement throughout all industry in order to obtain wide reemployment, to shorten the working week, to pay a decent wage for the shorter week and to prevent unfair competition and disastrous overproduction.

Employers cannot do this singly, or even in organized

groups, because such action increases costs and thus permits cutthroat underselling by selfish competitors unwilling to join in such a public-spirited endeavor.

One of the great restrictions upon such cooperative efforts up to this time has been our antitrust laws. They were properly designed as the means to cure the great evils of monopolistic price fixing. They should certainly be retained as a permanent assurance that the old evils of unfair competition shall never return. But the public interest will be served if, with the authority and under the guidance of Government, private industries are permitted to make agreements and codes insuring fair competition. However, it is necessary, if we thus limit the operation of Anti-trust Laws to their original purpose, to provide a rigorous licensing power in order to meet rare cases of noncooperation and abuse. Such a safeguard is indispensable. * * *

Provisions of the Industrial Recovery Bill

The National Industry Recovery bill is designed to meet the needs of the present national emergency which, in the language of section 1, is "productive of widespread unemployment and disorganization of industry, which burdens interstate commerce, affects the public welfare and undermines the standards of living of the American people."

Title I of this bill provides a program of industrial recovery through removal of obstructions to the free flow of interstate commerce, promotion of cooperative action among trade groups and between labor and management, elimination of unfair competition, and relief of unemployment, all under adequate governmental sanctions and supervision in order to protect the public interest.

Section 1 defines the policy setting forth the existing national emergency which has produced widespread unemployment and disorganization of industry, and which has resulted in undermining the standards of living in this country. This section also establishes the constitutional basis for this legislation, which is predicated upon both the interstate commerce clause and the general welfare clause of the Constitution.

Section 2 of the bill gives the President the authority to establish suitable agencies to carry out the policy declared in section 1. He is given authority to set up the necessary machinery, without regard to the provisions of the civil service laws or the Classification Act. The civil service and classification requirements are waived, due to the emergency character of the bill, the short-time employment, and the necessity for prompt action. The President is also authorized to establish an industrial planning and research agency to aid in carrying out his functions under this title. The powers granted under the title terminate at the expiration of two years after the enactment of the bill, and sooner if the President shall proclaim, or Congress by joint resolution shall declare, that the emergency has ended. The bill provides the following methods for putting into effect the policy outlined in section 1:

1. Voluntary codes of fair competition.
2. Mandatory codes.
3. Trade agreements.
4. Labor agreements.
5. Limited labor codes.
6. Licensing.

The voluntary codes of fair competition are provided for in section 3 (a) of the bill. Under this section, any trade or industrial association or group is authorized to prepare and submit to the President for approval a code of fair competition, which will regulate the competitive practices within the industry or trade represented. This gives each trade or industry an opportunity to adjust itself. The President is authorized to approve such a code only if he finds the following:

(1) That the association or group admits equitably to membership all who are engaged in the same trade or industry.

(2) That the association or group is truly representative of the trade or industry for which it speaks.

(3) That the code presented will not promote a monopoly.

(4) That the code will not oppress or discriminate against small enterprises.

(5) That employees will have the right to organize and bargain collectively, through representatives of their own choosing (sec. 7 (a)).

(6) That no employee will be required as a condition of employment to sign an antiunion contract. This outlaws the so-called "yellow dog" contract (sec. 7 (a)).

(7) That employers will comply with the maximum hours of labor and minimum wage of pay and standards for other working conditions approved by the President (sec. 7 (a)).

(8) That the code will tend to effectuate the policy of this title.

After the President has approved a voluntary code, it becomes effective for the entire trade, industry, or subdivision thereof to which it applies. Thereupon operations in conformity with the code provisions become exempt from the provisions of the antitrust laws of the United States. If anyone engaged in interstate commerce or in business affecting interstate commerce violates any of the provisions of the code, such a violation constitutes an act of unfair competition. The code is enforced by several methods: (1) Proceedings to prevent unfair competition under the Federal Trade Commission Act. (2) A violation of any of code provisions constitutes a misdemeanor punishable by a fine of $500. (3) Violations may be prevented by an injunction proceeding in the Federal courts. (4) The code may also be made effective through the licensing provisions provided for under section 4 (b). If codes, agreements, or licenses prove faulty, the power is reserved to the President, under section 9 (b), to cancel or modify any order, approval, license, rule, or regulation issued under this title.

Section 3 (d) gives the President authority on his own motion, or upon complaint that abuses exist in any trade or industry or subdivision thereof, to prepare and approve, after holding hearings, a mandatory code of fair competition for such trade, industry, or subdivision thereof. Such a code has the same effect as a voluntary code of fair competition and is subject to the same provisions and penalties. Under this subsection, if any trade or industry cannot or will not cooperate in the preparation of a voluntary code, the President may prescribe a mandatory code.

Section 4 (a) authorizes the President to make or approve voluntary agreements between and among individuals, labor, trade, and industrial organizations which will aid in effectuating the policy of this title and will be consistent with the requirements of a code of fair competition. Whereas a code of fair competition will be made for an entire trade or industry and must be made by those truly representative of the trade or industry, these voluntary agreements can be entered into by parties in an industry or in more than one industry. The code binds all persons engaged in a trade or industry, but an agreement binds only those entering into it. Thus the provisions for codes and agreements supplement each other and provide a thoroughly flexible machinery of industrial operations.

Section 4 (b) gives the President authority to license business enterprises whenever he finds it necessary in order to make effective a code of fair competition or an agreement or otherwise to effectuate the policy of this title. This is a vigorous emergency power which, it is assumed, will not be exercised except where necessary to prevent unfair competition, to remove obstructions to interstate commerce, and otherwise to carry out the purposes of this title. Licenses would be subject to revocation after due notice and opportunity for hearing in the event of violations, and a violation of a condition of a license or operation without a license is made an offense punishable by fine or imprisonment.

Section 5 exempts from the provisions of the Antitrust Laws of the United States any business operations carried on in compliance with the provisions of a code, agreement, or license approved, prescribed, or issued under this title and during the effective period of this title, which is not more than 2 years plus 60 days after the emergency period.

Section 6 (a) requires trade and industrial groups to furnish the President with such information as shall be required by regulation.

Section 6 (b) authorizes rules and regulations and penalties for violation, and section 6 (c) empowers the Federal Trade Commission to make investigations in aid of the enforcement of this title.

Section 7 (a) requires that every code of fair competition or agreement or license approved or issued under this title contain the conditions that (1) employees shall have the right of organization and collective bargaining, that (2) no employee shall be required as a condition of employment to join a company union or refrain from joining a labor organization, and that (3) employers shall comply with the maximum hours, minimum wages, and other working conditions approved or prescribed by the President.

Section 7 (b) authorizes the President to give every opportunity to employers and employees to establish, by mutual agreement, standards of maximum hours, minimum rates of pay, and other working conditions necessary to carry out the policy of this title. Such agreements, when approved by the President, have the same effect as a code of fair competition.

Under section 7 (c), if no such mutual agreement has been approved by the President, he may after due investigation prescribe a limited code of fair competition, fixing the maximum hours, minimum wages, and other working conditions necessary to effectuate the policy of this title.

Section 8 is a saving clause, providing that this title shall not be construed to repeal or modify any of the provisions of the Farm Relief Act, approved May 12, 1933.

Section 9 (a) provides for rules and regulations, and (b) provides, as heretofore stated, for the cancelation or modification of any order, approval, license, rule, or regulation issued under this title.—*Extracts, see 2, p. 192.*

Monopoly » »

The exclusive right, privilege, or power of selling or purchasing a given commodity or service in a given market; exclusive control of the supply of any commodity or service in a given market; hence, often in popular use, any such control of a commodity, service, or traffic in a given market as enables the one having such control to raise the price of a commodity or service materially above the price fixed by free competition. At the common law the term monopoly was specifically applied to an exclusive privilege of trade created by state grant or charter, and the term is still sometimes so used. Exclusive control of traffic constitutes a monopoly in the economic sense, whether acquired by state grant (as in case of patents or copyright, which are statutory exceptions to the common law rule making monopolies illegal), by control of sources of supply (as in case of mines), by engrossing (which see) an article (as in case of cornering the market), by combination or concert of action, or by any other means. **WEBSTER'S NEW INTERNATIONAL DICTIONARY.**

PRO

Is Industrial R[...]
Upon a Su[...]
The Anti[...]

Donald R. Richberg

THE desire for relief from the antitrust laws has proceeded very largely from trade associations and their organizations, although in general the same request has been voiced from time to time by various labor organizations that had felt the full impact of the conspiracy clauses restraining their efforts to maintain good conditions of work as, in some instances, conspiracies in restraint of trade.

So there has been a sort of common thought and purpose among the managers of industry and the workers in industry, of a desire for some relief from the antitrust laws.

Now, that has become very acute in this time of depression, because of the amount of surplus labor available. Because of the millions of the unemployed, the inevitable effect has been to break down all labor standards, to break down the standards of working conditions, to lengthen the hours, to break down the standards of wages, and so to deflate to a terrifying extent that labor which still had any employment whatsoever.

The result of that upon the managers of industry has been equally or more distressing, because those who desired to maintain fair conditions of wages and working conditions found themselves absolutely unable to compete with business enterprises that constantly cut wages and operated under very unfair and unhappy working conditions. So again, there is no doubt a common purpose and desire among both the managers in industry and the workers in industry to try to establish, in some way, decent standards of wages and working conditions, and I believe it has come to be realized by both groups in the period of this depression that the most unfair competition that existed in industry was the competition through depressed and disorganized and deflated labor.

In other words, the manufacturer who desired to put out a decent product at a decent price, and at the same time pay decent wages, found that he was simply up against a competition that he could not meet, and, willy nilly, he had to cut wages and he had to work long hours, and he simply had to oppress his employees, although he might have desired to do the square thing and the right thing.

There is another factor that has developed; I do not need to go into it at great length, because we are all familiar with it; and that is the terrific effect upon the country at large of a decline in purchasing power. The great purchasing power of the country comes from those who work for a living, either on the farms or in the factories or in transportation, and if wages of labor are depressed at a time also when labor is thrown out of employment by millions of workers, of course we are all familiar with the result to the entire prosperity of the country.

This decline in purchasing power has simply been a steady spiral downward, and here is this competitive factor which has forced the better intentioned man, we will say, to constantly meet the competition of those who were more ruthless in beating down prices at the expense necessarily of labor; and I believe it has been realized that that was one of the great continuing causes of this downward spiral of the depression, and that the only way to reach it was in some way to arrive at the possibility of industrial agreements which would determine the standards of fair competition, and particularly the competition for workers; in other words, would fix minimum wages, would fix maximum hours, according to the needs of specific groups in industry, so that at least goods might be produced under conditions that would afford decent living standards to the workers who were employed, would maintain their purchasing power, and at the same time would permit the managers of industry to compete in the markets, which they could not do as long as the utterly unrestricted competition was allowed which was breaking down our standards.

It has been the desire of the trade associations, from the employers' standpoint, to be permitted to get together and make agreements establishing standards of fair competition; agreements such as have developed in a great many industries where they have attempted trade-association operations, for the purpose of eliminating unfair practices, and also, let us say, for the purpose of establishing price levels on which the industry felt it could survive.

Of course, those agreements have run head-on into the Sherman law and the other Anti-trust Laws, because they tended to restrict competition, to restrain competition in interstate commerce, and as a result came under the prohibitions of the Anti-trust Laws. The courts have had, ever since the Sherman law of 1890, a steady succession of cases as to what was a violation of the Anti-trust Laws, and with the development of these trade associations a whole line of cases have been presented year after year, to the Supreme Court of the United States finally, as to whether these trade associations were legitimate organizations, confining themselves to what could be done despite the prohibitions of the Anti-trust Laws, or whether they were, as a matter of fact, conspiracies in restraint of trade. It is quite useless and impossible at this moment for me to attempt to review that line of decisions, except to say that the sum total of it is this: That throughout industry there has been complete uncertainty as to what could be legitimately done by a trade association, and there has

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Recovery Dependent Suspension of Anti-trust Laws?

Hon. Joseph B. Shannon

I AM sensible of the fact that in the midst of our popular fervor and enthusiasm for the program of economic reconstruction and the long-hoped-for "new deal," a warning voice may not find much of a welcome. I want it understood that I have no desire to oppose or in the least to throw an obstacle in the way of the many reforms now under way, which, God knows, are sorely needed to bring some order out of the existing chaos. As a Democrat—a Jeffersonian Democrat, if you will—I stand ready at all times to raise my voice and give my support to any measure on the Presidential program that seems to point the way for the forgotten man, or the little forgotten business, to beat his or its way back to prosperity. But when I find creeping into the company of the many varied and popular measures for the rehabilitation of business such a mysterious stranger as the movement to repeal the Sherman Anti-trust Law, it seems to me that we should call a moment's halt and reconnoiter the ground ahead of us. There may be a black-winged vulture edging his way in among our eagles of reform. I seem to sense an atmosphere of hugger-mugger in the harmony of our plans and hopes that will bear investigation.

I recollect in my school days reading the great story of the siege of Troy. The Greeks for 10 years had tried to batter down its walls in vain. At last they sought an armistice and they constructed a great wooden horse which they asked leave to present to the Trogans as a peace offering. But one wise old Trojan, when the proposition came up in council, said, "I fear the Greeks even when they bear gifts." But his warning voice was voted down, when the wooden horse was pushed through the opened gates of Troy it was filled with Greek soldiers, who opened the way for the Greek invaders and Troy fell never to rise again.

I am not advised how far this movement directed against the Anti-trust Law has penetrated the program of reform, or whether or not our leaders have given their approval to it. For myself, I want to go upon record as against any attempt to remove that law from the books. Enough has been already done to emasculate it and weaken its vitality. But the law is still there, and it is my hope that life may yet be restored to it. As chairman of the House committee which investigated Government interference with the small business man, I learned from original sources the destructive influences of such competition. But far greater and more devastating within the past 20 years or more of big-business rule has been the havoc wrought upon the struggling merchants of this country by the concentration of capital and interlocking corporations—an evil which the Democratic Party has fought consistently in every campaign and which, in my humble judgment, it stands pledged to remedy now that it is in a position to redeem its pledges.

To me, for the Democratic Party to turn about face on the trust question would be as preposterous and heretical a change of doctrine as for an ordained representative of some great religious body that had for centuries taught a belief in God to announce suddenly to his congregation that "for a few years now we propose to release you from a belief in God and to suspend the operation of His law as a new experiment."

If, as we have been taught from the birth of our party and as we have repeatedly reiterated in our party platforms, the Anti-trust Laws were the first stepping stones to some remedial legislation designed to correct the abuses brought about by combinations aided by immense capital, why, may I ask, do we now stop in the midst of our great movement of reform and our efforts to relieve the struggling business men of the land and the unemployment that has resulted from their failure to carry on, to wipe from the books the first remedial law in this regard that was ever placed there? Is it not time to sound a warning, to look about us, to inquire whether we are not about to open our gates to a wooden horse with his belly full of trust magnates?

Thomas Jefferson, from far-off France, at the making of our Constitution, complained of the things that the Constitution failed to take notice of, or, rather, that the makers left out of the proposed document. One of these was the Bill of Rights, guaranteeing freedom of speech, freedom of religion, freedom of the press, an adequate, permanent habeas corpus, and, further, a proper control of monopoly.

It was doctrines such as these which Jefferson enunciated that caused Thomas Edward Watson, the historian of Georgia, to say of Jefferson that his teachings called upon the law-making power to use every device possible to keep down the centralization of great wealth, meaning that there should be no accumulation of the wealth of the land in the hands of a few; that the wealth of the land should be divided; that there should be a multiplicity of the well to do scattered over the land, from which source only national happiness could come. If wealth were to be concentrated, of course, the contrary would be true. And that great statesman and founder of our party principles said further that he would not give a fig for a people that did not have the spirit of revolt in their blood, lest those in control of government should forget whose Government this was.

In 1889, the opening day of the session of Congress of

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been very great certainty that some of the things that the organizations particularly wanted to do, in the line of price stabilization at least, were illegal.

Therefore, facing this present condition, where the competition which normally existed, perhaps through unfair trade practices, has been intensified by a competition for cheap labor, a competition in long hours, a competition destructive of the physical welfare and well being and the prosperity of the country—in that situation these trade associations perhaps have enlarged their vision, enlarged their desire to get together in agreements, and it has been perfectly apparent that no adequate agreements could be obtained which would not conflict with the Anti-trust Laws.

Any suggestion that the Anti-trust Laws simply be repealed would turn us back, without Government restraint, into the field of developing monopoly and monopoly control of prices and output, which would be abhorrent to the general sense of the American people, who, I think, still believe that a private monopoly is indefensible. Yet any suggestion that the Government should regulate took upon it the tremendous problem of, "Well, we have been trying to regulate the public utilities for a great many years; we haven't made any too great a success of it. Shall we enter into the field of regulating all industry?"

Now, we are facing, in this depression period, a very great and critical need that we at least endeavor to experiment in this field; and I think one of the great recommendations of proposed Industrial Recovery act is that it is an emergency act, so that if mistakes are made they will not persist and become permanent in the law, and at the same time it does provide for an experiment, probably the most tremendous experiment in the way of governmental activity that has been undertaken by this Government in connection with business; and that is the experiment of encouraging business organizations to get together to establish agreements that will promote fair competition, and primarily, from my point of view, fair competition as to labor; fair competition in wages and working conditions, but retaining all the time the power of correction through the Federal Government exercising the powers that may be delegated by the President under this bill.

Now, one very great value, it seems to me, of this type of legislation is this: It is doubtful whether it could be properly presented or considered by Congress in any time except such an emergency as the present time; and the only way it can be adequately handled at the present time will be in the way, it seems to me, that is suggested in this bill, and that is by setting up an entirely flexible machinery which the President can create to meet the needs of the situation, so that we do not embark on some rigid method of control which, we would find, involved us in hopeless red tape and defeated the very object of the bill.

In other words, so long as the President is permitted, as authorized in this bill, to set up the necessary agencies, we do not have to go into the proposition of trying day after tomorrow to regulate all of the industries of the United States; but those industries that, for example, can get together and agree upon a fair code in the near future can receive the sanction of the Federal authority which will permit them to enter upon such agreements without being subject to the penalties of the Anti-trust Laws. Then, bit by bit, the industries, one by one, that should be brought under some form of self-control, in the first place, can be encouraged and induced to go forward; and if we find, as we do in some industries today, a very critical and dangerous condition affecting the welfare of millions of people, the President, upon proper consideration and investigation can undertake an emergency code, we will say, for those industries, in order to give the disorganized industry, if you will, a chance to organize along a sound line.

Now I want to say that in the consideration of this bill there has been a great deal of helpful and encouraging work done by industries themselves in coming forward and making suggestions and expressing a willingness, as soon as such an act as this is adopted, to go forward wholeheartedly to cooperate with the administration of the act in putting it into effect; and I think the President expressed in his message to Congress clearly, more clearly than I can here, the general purpose and attitude of the administration toward the bill; primarily, let me say, the desire to give industries an opportunity of self-organization, of self-discipline, but putting behind that the capacity of the Federal Government to bring into line recalcitrant minorities insisting on breaking down the standards necessary for the welfare of the people; and then the aid and cooperation of the Government in bringing about such agreements where the dissent in the industry itself is such that they need an arbiter, we will say, to bring them together.

Now, the detail of the bill is merely an effort to write those principles into law; and, of course, I have felt, as I said, that the primary unfair competition from which we were suffering here was the unfair competition in the use of labor. I have been peculiarly interested in those clauses of the bill designed to protect labor, to insure the setting of fair standards of work; and I think you can readily see that there is no honest reason for complaint when an industry is given the opportunity to come under standards which are fixed throughout the industry, and therefore does not face the unfair competition of groups that can break down those standards. In other words, there is every encouragement for an industry to do the right thing under those circumstances.—*Extracts, see 3, p. 192.*

Hon. Clyde Kelly

THE Industrial Recovery bill provides that for the life of the act and for 60 days thereafter any code agreement or license issued under it shall be exempt from the provisions of the Anti-trust Laws of the United States.

This provision must be understood in connection with the previous requirement that no code shall be designed to promote monopolies or to eliminate or oppress small enterprises or discriminate against them.

The Anti-trust Laws have had two entirely separate effects. The first is the vitally important one of prohibiting monopoly and all coercive or oppressive tactics toward competitors, which tend to destroy competition and create monopoly.

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that year, Mr. John Sherman, of Ohio, introduced a bill which had for its purpose the regulation and control of monopolies, trusts, and so forth. That bill was debated in the Senate of the United States and in the House of Representatives for a period of some 5 months. The measure now on the books and known as "the Sherman anti-trust law" came from the Judiciary Committee as a substitute to the one introduced by Sherman, and it is commonly said that the real author of the agreed-upon measure was Senator Hoar, of Massachusetts.

No hand, in a legislative way, has ever been laid upon the Sherman Anti-trust Act. For more than 21 years it remained without any judicial interference with its provisions. The Supreme Court of the United States repeatedly upheld the law. Many proceedings concerning it reached that tribunal. It was used unfairly to get a decision against labor by predatory interests, notwithstanding that never a word was said in its enactment that it was to apply to labor. Its plain intent by its proponents was a use against organized wealth.

The hordes of privilege, through their hired agents, have since the Sherman law was put on the books never let up in their efforts to tear it down. There has not been a concerted effort on the part of any administration to wipe out the trusts, save and except an occasional flare here and there. President Woodrow Wilson, just prior to our entrance into the World War, vigorously undertook to do it through amendments to the Federal Trade Act. The war stopped him. The trusts have run wild since 1920.

In all great crises, such as at the present time and during the World War, there is an insistent hugger-muggering between the big corporate interests and the administrative and legislative agencies. Ninety-nine times out of a hundred when the hugger-mugging ceases the big fellow has added a little more fat to his greedy hog at the expense of the little fellow, who is not able to fight and has gone down in the melee. It is the very cornerstone of the community, the little merchant, who always suffers—who has suffered almost to extinction. He is fighting today for his very breath.

All America cries out for something to be done at this moment, and that is, "We want to see the name of John Henry or Bill Smith or Tom Clark substituted for the common name of Piggly-Wiggly or the Great Atlantic & Pacific Tea Co., or this or the other big business combinations, and we want him backed, if he can get backing, in fair competition with his fellows in the small lines of trade." Hundreds of thousands of small merchants have lost their means of livelihood and are now tramping the streets. When the leading man of the Atlantic & Pacific Tea Co. died a few years ago in New England he left an estate of $125,000,000.

Those conditions could only be made possible through a violation of the law that bears the name of John Sherman. Shall we choose this time to kill entirely the law that the so-called "rule of reason" maimed? Let us have a new rule of reason and let the new rule be that the last Piggly-Wiggly and the last Atlantic & Pacific and all of their kindred crowd shall no longer be empowered by law to crush their little competitors, and that in their place may spring up again rugged Americans doing business as individuals and not as mere remittance agents for the trust magnates of the United States.

What are the influences at work, one may well ask, that are seeking to blind the judgment of some of our leaders in these times, when downtrodden men are calling so clamorously for wisdom and justice and for the redemption of the pledges that every Democratic platform has made to the people? Time and again we have written into our party platforms the reiteration of the Jeffersonian doctrine that we stand for the "equality of all men before the law" and for "equal and exact justice to all citizens."

As the trusts and combinations of capital increased in power and oppression, the Democratic Party in every campaign since has denounced them and promised relief. We have pointed to the Republican Party as the fostering party of the trusts—we have pledged our own party to remedial laws that will curb their abuses and protect the rights of the individual merchant and the small competitor. We have stood by the letter of the Sherman Anti-trust Law and denounced its emasculation. It was upon the Democratic Party and its promises and pledges that the people pinned their hopes of relief from those vast combinations that were slowly crushing their individual business efforts to death. Are we to fail them now in their hour of greatest need? Are we to lend our credulous ears to the subtle voices of the big interests that now, under the guise of friendship and cooperation, are seeking to "make the worse appear the better reason," to lead us to believe that repeal of the only law that protects the small business man, feeble as its execution has been, is in line with the other great movements we are undertaking to rehabilitate the Nation and restore it to its prosperity? Let us not mistake the voice that is trying to convince—the voice may sound like the voice of Jacob, but if you take a close look and feel of the hand, you will know that it is the hand of Esau—that hairy paw that is ever reaching out for special privileges, for the destruction of competition, for bigger profits, and for monopoly of legislative benefits.

Just this word in conclusion: In every public square in the United States there should be a memorial tablet erected to John Sherman, James Z. George, John H. Reagan, George Franklin Edmunds, George Graham Vest, and those other great men who foresaw and tried to prevent this terrible condition that has reached America, though their efforts failed to bring about their noble purpose, due to inaction on the part of executive departments of the Government.

And let us hope, if William Jennings Bryan and Thomas Jefferson from the shades beyond are looking down today upon the Democratic Party, that they will not feel as did the old prospectors in many instances in the far West, when perhaps their sole companion and protector through the long wilderness nights would be their dog they had brought from the States. The hungry coyotes would gather round, making the nights hideous with their barking and efforts to get at the inmates in their little boarded hut. Then imagine the dismay when it was found that the dog, their friend, was missing and that a night or two later they could recognize the voice of their once faithful watchdog amongst the coyotes, having joined them in their savage efforts to get at the prospectors. Shall we Democrats, professed defenders of the common

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This part of the Anti-trust Laws remains in full force and effect. The operation of this law will be in full accord with it. In fact, it will add to the strength of the laws against monopoly. It was cutthroat competition on the part of the great corporations which led to the passage of the Sherman Act. The debates in Congress show that it was the complaints of the smaller business men against destruction through unfair practices and destructive competition that led to the enactment of the law.

However, the law has been held to prohibit agreements of beneficial kind between independent competitors. It has banned cooperation even when united action has been in the public interest.

The result has been compulsory competition of the kind which leads to the ruin of the smaller enterprise. The only remedy for excessive production is controlled production. But limitation of production cannot be accomplished by one concern any more than limitation of armament can be accomplished by one nation. There must be agreement and cooperation.

Such action on the part of independent business men has been held to be illegal and subject to criminal penalty. Of course, it affects the supply and thus the price of the commodity and is forbidden, if every agreement to restrain competition, whether in the public interest or not, is covered by the Sherman Act.

It has been so held by the courts in many cases, although every observer knows that the only effective means for industrial welfare are based upon mutual agreements of entire industries.

This bill cuts a clear pathway through the undergrowth of 40 years of legislation and judicial interpretation. It accepts the fact that competitors are practically on the same level of costs in this advanced era of manufacture, and that there is no middle ground between destructive industrial war on one hand and industrial peace through mutual agreements under the supervision of the Government.

These agreements, properly supervised, cannot lead to oppressive prices. Industry knows that the lowest prices consistent with a fair return induce greater consumption, and greater consumption in turn makes lower costs possible. We have also learned during the last 4 years that unless the industry and its pay roll are preserved there is injury done the entire public.

The real purpose of the Anti-trust Laws was to protect the public from unregulated monopoly power. Great consolidations of capital threatened the public welfare. Yet in our own times has come stupendous mergers which are seeking and securing the power which the law sought to guard against. This bill will remove the incentive to merger and consolidation. It will give the little independent enterprise its fair place in the industry and protect it against oppressive methods.

Under this plan of partnership control by industry and government, there will be preserved every wholesome prohibition of the Anti-trust Laws against monopoly and oppression. At the same time it will permit agreement for the restraint of the unfair competition which is the sure road to monopoly.—*Extracts, see 4, p. 192.*

Ernst & Ernst

All proposals for revision of the Anti-trust Laws fall in the general class of a regulated or controlled economic system. Competition has been the cardinal principle on which the American business system has been built. Gradually, over a period of years, however, competition has been subjected to various restraints of law, particularly as regards certain "unfair" practices. The nation is now on the point of imposing various new restraints on competition, working gradually in the direction of a controlled economy. There are many ways of accomplishing this. One route would lead to outright state socialism, by which the government itself would take over the functions formerly performed by private enterprises. The substitute is government control, government supervision or government "dictation" of private business.

The government "dictatorship" which is contemplated does not mean, in practical operation, what the term implies theoretically. It means that the government assumes the authority to exercise a wide range of either restraint or compulsion over private business, without necessarily using the authority in any arbitrary way. This is the meaning of the pending farm legislation; the Secretary of Agriculture would have wide powers, but he would not be required to exercise them. A comparable plan is being worked up for railroads and it is now being proposed that the government also shall assume a qualified dictatorship over the whole economic system.

Thus, in a sense, government is now proposing to do for business only what business for years has wanted to do for itself and which it was unsuccessful in doing, for two reasons:

(1) In every line, there is an element of cut-throat competitors who do not envisage the trade or industry as a whole, and who persist in following a short-sighted policy of bitter competition in the hope, perhaps false in the end, that they can survive while others fail.

(2) The other reason lies in the Anti-trust Laws, whose twilight zones and ambiguities created within many industries a fear to do what seemed economically desirable. Consideration is now being given to modifying the Anti-trust Laws in such a way as not to abolish competition, but to define more clearly the realms within which competition is to be maintained, and to define other realms in which constructive cooperation is to be positively encouraged.

Trade practice conferences contain the key to the government's policy of the future. For nearly 12 years they have worked well within certain limits to eliminate unfair trade practices. They have been supervised and administered under the authority of the Federal Trade Commission, but the idea is now being extended. The farm bill provides for trade practice conferences of the agricultural trades under authority of the Secretary of Agriculture,

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people, unleash our only remaining hound to join the trust coyotes?

In the name of Jefferson, in the name of Jackson, in the name of Wilson, in the name of that great commoner, William Jennings Bryan, let me voice the hope at this critical time that it will not be the choice of the Democratic Party to destroy the one law that enables us to cling to some hope of restoring the little fellow in trade to his rights—the Sherman Anti-trust Law—*Extracts, see 5, p. 192.*

Hon. George Huddleston

We have a general clamor throughout the country against competition. Everybody wants a monopoly. But they realize that we cannot leave the people to the mercies of the monopolist, and the monopolist knows he cannot get away with that, so he proposes governmental regulation. The grocer monopolist says, "Let us have regulation of grocery stores and abolish these cheap little dirty stores, and do away with these shabby fellows who are willing to get along with less profit. Down with him, this little fellow who hires inexpensive help. It is not fair."

Here is a man with small capital, for instance, who can operate no more than his own one bus and drives it himself. Here, on the other hand, is a great concern, running busses from one end of the country to the other. Each one of these costs a fortune and it runs along the road like a storm out in Kansas. The first little fellow runs a cheap bus, and he can do it for less. Now the cry goes up, "Away with him."

They say, in short, that for a man to prepare himself to serve the public adequately he must expend a large sum of money, and that he cannot afford to do that unless his investment is on a permanent basis, and the field is not open for somebody to come along and take away his business. There are "wildcat" operators, and the cry of "unfair competition" and "destructive competition" goes up. These are the epithets that all of these seekers of monopolies use.

There is no more reason why the principle of denial of competition should be applied to the bus business than to the grocery business. We like to trade with an up-to-date grocer with nice things in his store, and an efficient corps of clerks. A man cannot afford to enter that business and make that preparation unless it is on a permanent basis. He does not like to be open to the competition of somebody setting up across the street and "selling for less." He cries out against it as "destructive competition."

The grocer's argument against competition applies, just as in the bus business, to every business. It applies to the lawyer in his office, to the doctor, and to other professional men; it applies to manufacturing and to merchandising, and from the top of business to the bottom.

Everybody finds competition exceedingly inconvenient. That applies even to the Congressman running for Congress. You ought to hear what we say about the fellows who dare to run against us for Congress!

"Here am I, who have equipped myself for the office by 15 years of study and service and an extraordinary amount of patriotism; why, I cannot afford to do that if I am to be turned out every two years." It is wrong! "Down with competition for office." If you were to put that question to the House you would get a unanimous "aye" vote.

I would just as willingly leave to the Members of the House who were running for reelection the issue of whether they should have competition for office as I would leave such an issue to bus operators.

It is strange that I alone in the House have to be the champion of conservatism, to stand for the old principles, the ancient doctrine of competition, the good old doctrine of our fathers, the system upon which our whole economic structure is based. It is strange that I only am left to uphold that view. Other gentlemen have heretofore enjoyed the reputation of being conservative. But now they show themselves to be wild radicals, rushing on toward socialism with every force that they can muster.

There are a great many men in this country who are dissatisfied with competition. They are going into mergers to avoid competition with each other. They are consolidating their industries to avoid competition. They are raising up mountain-high trade agreements and evading the Anti-trust Laws, to avoid competition. These men have attained a state of wealth never known before in the history of the world. Their whole existence as business men is founded on the system of competition; yet these men are now driving on toward socialism.

I warn them that those who strike at competition are striking at the fundamentals of our economic system. Do not think that the people of this country are always going to submit to compromises with monopoly. Do not think that this country can be organized into a system of monopolies and can be continued on that basis.

Government regulation is a poor substitute for competition, and it is just as poor a substitute for socialism. It is merely a compromise between the two. Mark me, if we abandon the competitive system, reliance upon regulation will be but temporary and ultimately we will embrace some system of collectivism. If we should be forced to socialism, it should be not a socialism for private gain, as proposed by this bill, not socialism for putting money into the pockets of individuals, but a socialism for the general public benefit.

I believe in the old system. I believe in competition. I am an old-fashioned man. I believe in the old-fashioned political system and the old-fashioned economic system. They are tied up with each other and cannot exist independently. When one goes, the other will go.—*Extracts, see 7, p. 192.*

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Ernst & Ernst *Cont'd*

and it is now proposed to give other government departments a hand in supervision of trade agreements in other fields.

Technically a trade practice conference consists of an agreement among members of a trade or industry to do certain things intended to prevent unfair competition, subject to approval by the government. These things in the past have related mainly to matters of distribution and sales methods. Restrictions of the Anti-trust Laws prevented trade agreements designed to curb unnecessary losses through certain forms of price cutting and the penalizing of recalcitrant members.

The new ideas now developing with regard to trade practice conferences, intended to extend their usefulness, are these:

(1) To give to the procedure a definite legal status which heretofore it has lacked.

(2) To provide that the minority or dissenting members of a trade or industry shall be bound by the rules adopted by the majority, as measured by both numbers and volume of business.

(3) To extend the subject matter of rules to cover regulation of production, wages, hours of labor, and other matters which are related to ruinous price cutting competition.

With regard to (1), it is fairly obvious that this procedure deserves a statutory authority. This is provided in the Nye bill, which has been pending for two years without conclusive action, and which is now being revised to cover new phases.

With regard to (2), if business groups are to govern themselves, it seems essential that the control shall be by the majority, and that some way must be found for compelling the dissenting minorities to fall in line. The results may not be perfect, but it would seem that in the long run the judgment of majorities in any line might be trusted. Furthermore, it is obvious that government itself cannot be expected to supply the wisdom or intelligence to decide the multitudinous nice problems which arise in every line of modern business, or even to furnish the initiative.

With regard to (3), an argument for including production control, minimum wages, maximum hours of labor and other working rules and conditions, to prevent unreasonable competition in the subject matter of trade practice conference agreements, is as follows: The harmful effects of unwarranted price cutting are considered against the public interest as contributing to lower wage scales, reduced purchasing power, increased unemployment, and increased cost of relief work.

The extension and development of a new and more effective form of trade practice conferences to permit industries to work out their own problems under government supervision should be a constructive move and probably would show prompt results. The machinery already exists in the form of trade associations through which a controlled business program can be made effective in many business lines.

If these trade agreements are to be permitted, it is obvious that some public agency must supervise, lest the public interest be jeopardized by the selfish intra-industry interests, which might include both the corporations and the employes of the industry. Hence, it is obvious that a higher degree of government supervision and regulation of private industry must be expected in the future.—*Extracts, see 6, p. 192.*

Clarence M. Woolley

In 1890 when the Sherman Act was passed by the Congress the urban population was 35 per cent of the total, the rural population 65 per cent. In 1930 the urban population was 56 per cent, and the rural 44 per cent.

These statistics clearly indicate that we were an agricultural people in 1890 when the Sherman Act was adopted, but that meanwhile we have developed into an industrial nation.

In 1890, 43 per cent of the population were engaged in agriculture and only 26 per cent in manufacturing and mechanical pursuits.

In 1930, the percentage of population engaged in agriculture had declined to 22 per cent, while those engaged in manufacturing and mechanical pursuits increased to 29.3 per cent of the total population.

The Sherman Act as passed in 1890 provided that all contracts in restraint of trade are illegal. The passage of this act was an expression of fear on the part of an agricultural people against the rising tide of industrialism. Just as the framers of our Federal Constitution sought through broad language to make that instrument adaptable to the changing trends of the future, likewise the Sherman Act sought through the inclusiveness of its language to make it adaptable to a changing economic order which they sensed but could not definitely interpret. And just as an endeavor has been made through court interpretation to make the Constitution adaptable to ever-changing conditions, so it is that the courts have sought to make the Sherman Act fit new economic development.

In the case of the Constitution, however, it was found that court decision alone was not sufficient; amendment after amendment has been adopted to maintain the Constitution as the foundation of the liberties and well being of a great country.

Many people are now inquiring whether in like fashion an amendment of the Sherman law may not be necessary for similar reasons, since the larger percentage of our population gain their livelihood from the industrial activities of the country. It seems, therefore, quite con-

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Hon. Wright Patman

The Federal Trade Commission was organized at the request and upon the insistence of President Wilson. He made a campaign in 1912 against trusts and monopolies. One of his statements was that private monopoly is indefensible and that a Federal Trade Commission should be organized, not for the purpose of encouraging and promoting monopolies or trusts, but for the purpose of destroying monopolies and trusts, and protecting the people against them.

The original act creating the Federal Trade Commission was a good law. It was well meaning and for a long time was carried out in a very satisfactory manner, but in 1925 the procedure of the Federal Trade Commission was entirely changed. Instead of its continuing to be a commission that would safeguard the interests of the public and protect the rights of the people against monopolies and trusts, it commenced a course of procedure which resulted in the organization of trusts and monopolies.

The Federal trade practice conference work that has been conducted by the Commission for the last 3 or 4 years is nothing more than a trust organization work conducted by an agency of the United States Government.

On different occasions I have cited specific instances where the Federal Trade Commission brought members of a group of one of the industries together and where they aided and assisted the members of this group in framing rules and regulations which had for their declared purpose the fixing of prices that the consumers of America must pay. This has been done in more than a hundred cases. This was done in the face of the fact that the Federal Trade Commission had no power on earth to prevent the charging of an unreasonable price. The public was not protected in any sense of the word.

I do not believe that any commission should have the right to do this. It is not legal work that they are conducting; it is illegal work they are conducting. I do not believe that our Anti-trust Laws or our Anti-monopoly Laws should be weakened in any sense of the word.

On the other hand, I believe they should be made more rigid, more strict, and should be more diligently enforced. I do not care who composes a commission sitting in the city of Washington, that commission cannot conduct the affairs of the people all over this Nation in a satisfactory manner and properly protect the rights of the people. I have been watching the newspapers and the different reports, and yet I have been unable to find where one person has paid one dollar of fine or served one hour in jail during the last 4 years because he violated the Anti-trust or Anti-monopoly Laws of this country. A few wrists have been very gently slapped with a very small velvet hammer.

The Federal Trade Commission has hindered the enforcement of the Anti-trust and Anti-monopoly Laws instead of assisting in their enforcement. This Commission has acted against the rights of the people instead of for their rights; it has cooperated with and assisted law violators instead of trying to prevent law violations. Big monopolies and trusts do not fear contests in the courts to determine if they are in or out of the twilight zone; they fear criminal prosecutions. If we really want honest-to-God enforcement, we must start with the criminal laws.

If you permit a merger you throw people out of work, and as you throw people out of work business loses customers; farmers cannot sell what they produce and factories cannot sell what they manufacture. Therefore, the farmers and wage earners lose buying power. The more mergers you have the more employees are out of a job, and the more customers you lose. You have got to restore buying power.

Now, I want to call the attention of gentlemen to a plank in the Democratic platform of 1932. It reads:

In this time of unprecedented economic and social distress the Democratic Party declares its conviction that the chief causes of the condition were the disastrous policies pursued by our Government since the World War, of economic isolation, fostering the merger of competitive business into monopolies and encouraging the indefensible expansion and contraction of credit for private profit at the expense of the public.

May I suggest to my Democratic friends that if we do anything to encourage monopolies, mergers, combinations, or weaken the Anti-trust Laws, I believe we will be going in contradiction to the promises of our platform of 1932.

Instead of making the laws weaker we should make them stronger; instead of enforcing them through a bureau, we ought to have the investigations conducted by a grand jury, and by those who have a right to take them into the courts of this country and put them before a jury, and if they are guilty send them to jail, the penitentiary, or fine them.

Now, what chance would the consumers in this country have if all the power was left to a board of five members in Washington?

In other words, we want to help out the independent business man. We want an individualistic system. We do not want monopolies. We do not want trusts. We want small business institutions in every town. Let us have competition; let us have the people at work.

The ideal situation, we are told, would be to have one grocery system in each little town, one department store, one garage, one place where automobiles are sold, and one establishment only for the handling of each class of merchandise. But if you do that, you will destroy our country. You want to put the people to work—they are anxious to work—and when you do you will restore our buying power. If people do not have the buying power they cannot purchase. A few large bankers who use the credit of this Nation free are now in control of the large industries. Are we going to reward them for the substantial part they have contributed toward this panic by giving them a new, firmer, and more profitable grip upon the throats of the American people?

If mergers, monopolies, and trusts continue as they have the past 5 years it will not be 5 years until practically all jobs will be dispensed and practically all capital invested under the supervision of a handful of men in New York City. They are running and ruining the country now; let us not legalize their wrongful acts and further encourage their greed. Let us give the plain folks a chance, the ones who build our country in time of peace and save it in time of war.

Continued on page 177

Woolley *Cont'd*

sistent that these changing conditions fully warrant the readjustment of the Sherman Act to such vital and important development.

As heretofore stated, the Sherman Law was predicated on fear, and necessarily a blind fear, since there could be no possible anticipation of the ultimate effects of the changing trends toward industrialism. Today, as the greatest industrial nation in the world, it is apparent that the best interests of the public—however defined—must be something different than in 1890.

As the majority of the people of this country are dependent upon commercial and industrial pursuits today, then, with all due regard to the rights of the minority, the public interest must lie in those practices and processes which will encourage and not obstruct the security and safety of industrialism; and if it be found that the unyielding dictate of "all contracts in restraint of trade are illegal" is not in the best interest of this industrial country, the Sherman Act should be amended.

Without expressing an opinion as to language or legalities, the fair-minded business man of today is constrained to believe that the best interests of the American people as a whole lie in regulation which, in effect, dictates that all contracts in restraint of trade are illegal unless the best interests of the public in the individual case indicate to the contrary. In my opinion this is sound common sense and good economics. If, then, this be true, it lies with Congress to give legislative expression to that principle. It would be presumptuous for me to say how this should be done, but obviously with the least disturbance to existing law and to that mass of interpretative legal decision; and therefore, in general, I favor the retention of the law as written, but with modifications or exceptions which will convert an arbitrary dictate enacted by an agricultural people into a workable principle in the public interest of an industrial nation. It would seem that this might first be done perhaps in the case of the raw-material industries where conservation and wise utilization present a pressing problem.

It would not seem that the sentiment and judgment of the country would presently favor or tolerate price agreements and, therefore, I would not recommend any attempt whatsoever to legislate in that direction.

This is not an admission that the legislation of efforts or agreements to stabilize prices would be harmful. On the contrary, it is my opinion that the period through which we are now passing will ultimately demonstrate the wisdom of so doing in the public interest.

On the other hand, I believe that public opinion does recognize that overproduction is not in the public interest, since it brings with it frozen capital, destructive prices, and lower wages for the worker. I believe that if American industry were permitted to regulate production in the public interest—however severely construed—many of our major problems would be solved. Without attempting to appraise the many questions attendant upon a major depression such as now unhappily confront us, it seems quite apparent that maladjustment of production and distribution are among the chief elements to be considered and remedied.—*Extracts, see 9, p. 192.*

Henry I. Harriman

WHENEVER there is a great surplus of labor, whenever we are passing through a period of great depression, we always have cutthroat competition. It is inevitable. One man takes an order at a slightly less price than his competitor. In order to make a profit on that low price he must not only use all the skill that he has but he must cut the pay of his working people, and he must cut the dividends on his business. Then the other, man, not to be outdone, cuts his price still further; and so the endless chain continues, of lower prices and lower wages, and lower wages and lower prices.

I believe the time has come when we must take out of competition the brutality of competition. We must take out of competition the right to cut wages to a point which will not give an American standard of living, and we must recognize that capital is entitled to a fair and reasonable return, and that therefore goods must be sold at a price which will enable the manufacturer to pay a fair price for his raw material, to pay fair wages to his men, and to pay a fair dividend on his investment.

The Anti-trust Laws were rightly enacted to prevent monopoly; but they have gone far beyond that. They have prevented agreements between parties which would make it possible to stop this cutthroat and deflationary system in manufacture.

Now, I am not for one moment in favor of abolishing our Anti-trust Laws. I believe that they should be retained on our statute books as a guarantee against the return of unregulated monopoly. On the other hand, I think the time has come when we should ease up on these laws and, under proper governmental supervision, allow manufacturers and people in trade to agree among themselves on these basic conditions of a fair price for the commodity, a fair wage, and a fair dividend.

That is the object of this bill. It does not propose any repeal of our Anti-trust Laws. It simply provides that when groups of men in trade associations or otherwise have come together and entered into an agreement, and the Government has found that agreement to be in the public interest, that in such a case the antitrust laws should not prevent such contracts from going into effect.

Under normal conditions I doubt very much whether the Chamber of Commerce would desire me to go before Congress and approve a bill with such drastic conditions as this. A man said to me today, "Where are we going to if this bill is passed?" And I answered, "Well, where are we going to if this bill is not passed?" I said, "I do not think we can go on very much longer with millions of men out of work and with commodities at prices which pay no return on capital and pay almost no return for the human labor that is involved."
—*Extracts, see 10, p. 192.*

Patman *Cont'd*

I believe that the present Anti-trust and Anti-monopoly Laws should not be in any sense of the word weakened or impaired; that said laws should be strengthened and rigidly enforced; that instead of continually investigating violators by commissions without power to punish, which stand in the way of proper enforcement and never result in more than a mild wrist slapping, the Department of Justice and all United States attorneys throughout the Nation should be instructed to file and diligently prosecute both criminal and civil actions against all offenders; that we encourage an individualistic system for industry, including the operation of independent business establishments by the owners thereof; that trusts and monopolies be curbed by proper criminal laws rigidly and strictly enforced, to the end that small and independent producers and distributors may be permitted to pursue their business without destruction.

Therefore, it is not in the interest of the general welfare; it is not in the interest of our country that we have further mergers, or monopolies, or that we permit anything to be done that may weaken or in any way impair the Sherman or Clayton Acts.—*Extracts, see 8, 192.*

Hon. Linwood L. Clark

Both the Federal and State Governments are going to be told by the public before long in no uncertain terms that legal protection of monopoly against open, free, and fair competition must stop. Most certainly the public will not stand for competing transportation systems, merged by law, and against public interest, nor even in the utilities field, when there is no public reason or necessity for closing the door to competition.

I am not opposed to big business as such, but it must attain its growth, its size, its supremacy through merit, not special favors and privileges granted by law. It must win against fair competition; and then, although it should win its way to virtual or actual control and demonstrate its ability to remain there in spite of competition, no one could or would justly complain. During the period of rivalry and competition no greater protection should be asked than that furnished by the Federal Trade Commission.

Exclusive corporate control should be tolerated only when it is the inevitable result of sound, irrevocable economic development, and this should be left open to the challenge of free and fair competition. It should never be created by law, nor even be permitted to exist by agreement, secret or open. If a corporation cannot stand on its own merit, it should go down. Such is the penalty of progress. Legal protection has its limitations.

When and if the interstate motor-bus operator, for example, by sound, economic processes through fair competition, wins the field over all competitors and the public has to purchase service from one line on each route, then would be the time for the Federal law to intervene for public protection. In the meantime State police powers can meet all protective requirements of the public. During the period of development repressive measures under congressional sanction would dstroy or retard progress. Competition is the best regulating force the economic world has ever discovered and is the surest means of business growth and development. The wisdom and philosophy of competition in the growth of business and the incidental development of the character of a people is an American discovery. Nowhere else in the world prior to our Republic was competition recognized as the secret or active force in the development of business and individual initiative. No other force or principle has meant so much to our development as a Nation or people.

And America should erect a monument to free business competition, to stand forever as a reminder to the people of its contribution to America's greatness, and of the false and specious deceptive doctrine that such competition is destructive. There is not a force in the economic world more potent for good or more constructive than fair competition.

The best and soundest thought of the world yields to exclusive business control only when it has won its way through competition, and in spite of competition to a place where it stands alone in its chosen field. Unfair competition should everywhere be condemned. Our law does condemn it. I will say this, however; In the transportation field no competition should be permitted which bids only for the cream of business on the heavy-traffic routes, upon which the competitor depends to offset losses from the nonpaying parts of the system. Such competition would be manifestly unfair, and unfairness should nowhere be encouraged or permitted.

There is a dangerous school of economic thought teaching that business rivalry is bad both for the public and for business. This is a deceptive and dangerous doctrine, which is contrary to all history and experience, as no principle is more clearly identified with the industrial growth of our country than that of open, free, and fair business rivalry.

In some places some lines of business are fully developed, such as gas, electric, water, telephone, and railroad transportation, and have outgrown or outstripped, through the decades before commission regulation began, all competition or rivalry and now occupy exclusive fields of operation. These respective fields are preempted by general consent. But this preemption does not extend to any new competitive product or service which science or progress has developed. Regulation follows monopoly. Law does not create monopoly and then use it as a reason for regulation.

No business can be protected by law against supercession. Such, as already said, is the penalty of progress. Such is the program of business and of all civilization. The benefits of new ways and new methods cannot be denied to the public through ingenious circumventions. *Extracts, see 11, p. 192.*

Anti-trust Planks in the Democratic Platforms 1892-1932

1892

We recognize in the trusts and combinations, which are designed to enable capital to secure more than its just share of the joint product of capital and labor, a natural consequence of the prohibitive taxes which prevent the free competition which is the life of honest trade; but we believe their worst evils can be abated by law, and we demand the rigid enforcement of the laws made to prevent and control them, together with such further legislation in restraint of their abuses as experience may show to be necessary.

1896

The absorption of wealth by the few, the consolidation of our leading railroad systems, and the formation of trusts and pools require a stricter control by the Federal Government of those arteries of commerce. We demand the enlargement of the powers of the Interstate Commerce Commission and such restriction and guarantees in the control of railroads as will protect the people from robbery and oppression.

1900

We pledge the Democratic Party to an unceasing warfare in Nation, State, and city against private monopoly in every form. Existing laws against trusts must be enforced and more stringent ones must be enacted, providing for publicity as to the affairs of corporations engaged in interstate commerce, requiring all corporations to show, before doing business outside the State of their origin, that they have no water in their stock and that they have not attempted, and are not attempting, to monopolize any branch of business or the production of any article of merchandise; and the whole constitutional power of Congress over interstate commerce, the mails, and all modes of interstate communication shall be exercised by the enactment of comprehensive laws upon the subject of trusts.

1904

We recognize that the gigantic trusts and combinations designed to enable capital to secure more than its just share of the joint products of capital and labor and which have been fostered and promoted under Republican rule, are a menace to beneficial competition and an obstacle to permanent business prosperity. A private monopoly is indefensible and intolerable.

Individual equality of opportunity and free competition are essential to a healthy and permanent commercial prosperity and any trust, combination, or monopoly tending to destroy these by controlling production, restricting competition, or fixing prices should be prohibited and punished by law. We especially denounce rebates and discrimination by transportation companies as the most potent agency in promoting and strengthening these unlawful conspiracies against trade.

1908

A private monopoly is indefensible and intolerable. We therefore favor the vigorous enforcement of the criminal law against quilty trust magnates and officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States. Among the additional remedies we specify three: First, a law preventing a duplication of directors among competing corporations; second, a license system which will, without abridging the right of each State to create corporations, or its right to regulate as it will foreign corporations doing business within its limits, make it necessary for a manufacturing or trading corporation engaged in interstate commerce to take out a Federal license before it shall be permitted to control as much as 25 percent of the products in which it deals, the license to protect the public from watered stock and to prohibit the control by such corporation of more than 50 percent of the total amount of any product consumed in the United States; and, third, a law compelling such licensed corporations to sell to all purchasers in all parts of the country on the same terms, after making the allowance for the cost of transportation.

1912

A private monopoly is indefensible and intolerable. We, therefore, favor the vigorous enforcement of the criminal as well as the civil law against trusts and trust officials, and demand the enactment of such additional legislation as may be necessary to make it impossible for a private monopoly to exist in the United States.

We favor the declaration by law of the conditions upon which corporations shall be permitted to engage in interstate trade, including, among others, the prevention of holding companies, of interlocking directors, of stock watering, of discrimination in price, and the control by any one corporation of so large a proportion of any industry as to make it a menace to competitive conditions.

We condemn the action of the Republican administration in compromising with the Standard Oil Co. and the Tobacco Trust, and its failure to invoke the criminal provisions of the Anti-trust Law against the officers of those corporations after the court had declared that from the undisputed facts in the record they had violated the criminal provisions of the law.

We regret that the Sherman Anti-trust Law has received a judicial construction depriving it of much of its efficacy, and we favor the enactment of legislation which will restore to the statute the strength of which it has been deprived by such interpretation.

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Anti-trust Planks in the Republican Platforms 1888-1932

1888

We declare our opposition to all combinations of capital, organized in trusts or otherwise, to control arbitrarily the condition of trade among our citizens; and we recommend to Congress and the State legislatures, in their respective jurisdictions, such legislation as will prevent the execution of all schemes to oppress the people by undue charges on their supplies, or by unjust rates for the transportation of their products to market. We approve the legislation by Congress to prevent alike unjust burdens and unfair discriminations between the States.

1892

We reaffirm our opposition, declared in the Republican platform of 1888, to all combinations of capital, organized in trusts or otherwise, to control arbitrarily the condition of trade among our citizens. We heartily indorse the action already taken upon this subject, and ask for such further legislation as may be required to remedy any defects in existing laws and to render their enforcement more complete and effective.

1896

No Anti-trust plank.

1900

We recognize the necessity and propriety of the honest cooperation of capital to meet new business conditions, and especially to extend our rapidly increasing foreign trade; but we condemn all conspiracies and combinations intended to restrict business, to create monopolies, to limit production, or to control prices, and favor such legislation as will effectively restrain and prevent all such abuses, protect and promote competition, and secure the rights of producers, laborers, and all who are engaged in industry and commerce.

1904

Combinations of capital and of labor are the results of the economic movement of the age, but neither must be permitted to infringe upon the rights and interests of the people. Such combinations when lawfully formed for lawful purposes are alike entitled to the protection of the laws, but both are subject to the laws, and neither can be permitted to break them.

1908

The Republican party passed the Sherman Anti-trust Law over Democratic opposition, and enforced it after Democratic dereliction. It has been a wholesome instrument for good in the hands of a wise and fearless Administration; but experience has shown that its effectiveness can be strengthened and its real objects better obtained by such amendment as will give the Federal Government greater supervision and control over and greater publicity in the management of that class of corporations engaged in interstate commerce having power and opportunity to effect monopolies.

1912

The Republican Party is opposed to special privilege and to monopoly. It placed upon the statute book the interstate commerce act of 1887 and the important amendments thereto, and the antitrust act of 1890, and it has consistently and successfully enforced the provisions of these laws. It will take no backward step to permit the restablishment in any degree of conditions which were intolerable.

Experience makes it plain that the business of the country can be carried on without fear and without disturbance and at the same time without resort to practices which are abhorrent to the common sense of justice. The Republican Party favors the enactment of legislation supplementary to the existing antitrust act which will define as criminal offenses those specific acts that uniformly mark attempts to restrain and to monopolize trade, to the end that those who honestly intend to obey the law may have a guide for their action and that those who aim to violate the law may the more surely be punished. The same certainty should be given to the law prohibiting combinations and monopolies that characterizes other provisions of commercial law, in order that no part of the field of business opportunity may be restricted by monopoly or combination, that business success honorably achieved may not be converted into crime, and that the right of every man to acquire commodities, and particularly the necessaries of life, in an open market, uninfluenced by the manipulation of trust or combination, may be preserved.

In the enforcement and administration of Federal laws governing interstate commerce and enterprises impressed with a public use engaged therein there is much that may be committed to a Federal trade commission, thus placing in the hands of an administrative board many of the functions now necessarily exercised by the courts. This will promote promptness in the administration of the laws and avoid delays and technicalities incident to court procedure.

1916

The Republican Party has long believed in the rigid supervision and strict regulation of the transportation and great corporations of the country. It has put its creed into its deeds, and all really effective laws regulating the railroads and the great industrial corporations are the work of Republican Congresses and Presidents. For this policy of regulation and supervision the Democrats, in a stumbling and piecemeal way, are undertaking to involve the Government in business which should be left within the sphere of private enterprise and in direct competition with its own citizens, a policy which is sure to result in waste, great expense to the taxpayer and in an inferior product. *Continued on page 180*

1916

We have created a Federal Trade Commission to accommodate the perplexing questions arising under the Anti-trust Laws so that monopoly may be strangled at its birth and legitimate industry encouraged. Fair competition in business is now assured.

1920

The Democratic Party heartily endorses the creation and work of the Federal Trade Commission in establishing a fair field for competitive business, free from restraints of trade and monopoly, and recommends amplification of the statutes governing its activities, so as to grant it authority to prevent the unfair use of patents in restraint of trade.

1924

We declare that a private monopoly is indefensible and intolerable, and pledge the Democratic Party to a vigorous enforcement of existing laws against monopoly and illegal combinations and to the enactment of such further measures as may be necessary.

1928

During the last 7 years, under Republican rule, the Anti-trust Laws have been thwarted, ignored, and violated, so that the country is rapidly becoming controlled by trusts and sinister monopolies formed for the purpose of wringing from the necessaries of life an unrighteous profit. These combinations are often formed and conducted in violation of law—encouraged, aided, and abetted in their activities by the Republican administration—and are driving all small trades people and small industrialists out of business. Competition is one of the most sacred, cherished, and economic rights of the American people. We demand the strict enforcement of the Anti-trust Laws and the enactment of other laws, if necessary, to control this great menace to trade and commerce, and this to preserve the right of the small merchant and manufacturer to earn a legitimate profit from his business.

1932

In this time of unprecedented economic and social distress, the Democratic Party declares its conviction that the chief causes of this condition were the disastrous policies pursued by our Government since the World War of economic isolation, fostering the merger of competitve business into monopolies, and encouraging the indefensible expansion and contraction of credit for private profit at the expense of the public.

We advocate strengthening and impartial enforcement of the Anti-trust Laws to prevent monopoly and unfair trade practices, and revision thereof for the better protection of labor and the small producer and distributor.

The Republican Party firmly believes that all who violate the laws in regulation of business, should be individually punished. But prosecution is very different from persecution, and business success, no matter how honestly attained, is apparently regarded by the Democratic Party as in itself a crime. Such doctrines and beliefs choke enterprise and stifle prosperity. The Republican Party believes in encouraging American business, as it believes in and will seek to advance all American interests.

1920

We approve in general the existing Federal legislation against monopoly and combinations in restraint of trade, but since the known certainty of a law is the safety of all, we advocate such amendment as will provide American business men with better means of determining in advance whether a proposed combination is or is not unlawful. The Federal Trade Commission, under a Democratic administration, has not accomplished the purpose for which it was created. This commission, properly organized and its duties efficiently administered, should afford protection to the public and legitimate business interests. There should be no persecution of honest business, but to the extent that circumstances warrant we pledge ourselves to strengthen the law against unfair practices.

We pledge the party to an immediate resumption of trade relations with every nation with which we are at peace.

1924

The prosperity of the American Nation rests on the vigor of private initiative which has bred a spirit of independence and self-reliance. The Republican Party stands now, as always, against all attempts to put the Government into business. American industry should not be compelled to struggle against Government competition. The right of the Government to regulate, supervise, and control public utilities in the public interest we believe should be strengthened, but we are firmly opposed to the nationalization or Government ownership of public utilities.

1928

No Anti-trust plank.

1932

No Anti-trust plank.

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The 73d Congress « « Now in Session

Duration—March 4, 1933-March 4, 1935. First Session Convened March 9, 1933.

In the Senate

Membership
Total—96

59 Democrats — 36 Republicans

1 Farmer-Labor

Presiding Officer
President: John N. Garner, D.
Vice-President of the United States

Floor Leaders

Majority Leader Joseph T. Robinson, Ark., D.
Minority Leader Charles L. McNary, Ore., R.

Officers

President Pro Tempore
Key Pittman, Nev., D.

Secretary
Edwin A. Halsey

Sergeant at Arms
Chesley W. Jurney

Chaplain
Dr. ZeBarney Thorne Phillips, D. D.

In the House

Membership
Total—435

312 Democrats — 117 Republicans

5 Farmer-Labors
1 Vacancy

Presiding Officer
Speaker: Henry T. Rainey, D.
Member of the House from Illinois

Floor Leaders

Majority Leader Joseph W. Byrns, Tenn., D.
Minority Leader Bertrand H. Snell, N. Y., R.

Officers

Clerk of the House
South Trimble, Ky.

Sergeant at Arms
Kenneth Romney

Doorkeeper
Joseph J. Sinnott

Chaplain
Rev. James Shera Montgomery, D. D.

The Month in Congress--

Political Developments

The first three months of the first session of the Seventy-third Congress will go down as one of the most remarkable periods in the political and legislative history of the United States. During this brief period Congress has passed more vital legislation than it has during any other peace time two-year period since the early days of the American Republic.

That this should have occurred is due to a peculiar set of circumstances. The national elections of 1932 came three years after the beginning of an era of industrial and financial confusion. Regardless of what caused the depression, it had lasted to the point where all signs and all prophets had failed and where the American public was in a mood to make a change in the political control of the country. On November 8, last, this mood was expressed in votes, resulting in the election to the Presidency of Franklin D. Roosevelt.

Throughout the campaign Governor Roosevelt repeatedly referred to the "New Deal" to which he said the country was entitled and which he promised it should have in the event of his election. After he was inaugurated on March 4 he lost no time in putting the promised "New Deal" into effect.

Beginning with his famous banking proclamation of March 5 when, acting under a war-time emergency act which is still on the statute books, he closed all the banks of the country, down to his message to Congress requesting the passage of the industrial recovery bill, he has continued a rapid-fire program of action.

That Congress should be willing to follow his lead without serious protest is due to three factors.

First, the voters, in electing Roosevelt, also elected enough Democrats to Congress to give the President's party an overwhelming majority in the House and, with the aid of the votes of the progressive Western Republicans, a working majority in the Senate.

Second, the fact the Administration controls patronage and has skillfully withheld it pending action by Congress on the Roosevelt program. This club over their heads has kept many Democratic Senators and Representatives into line who otherwise might have kicked over the traces.

Third, the people of the country are, for the time being, at least, overwhelmingly back of the President as against Congress. Letters and telegrams which have poured into the offices of Senators and Representatives are indisputable proof of this.

One Senator of a naturally independent and fearless nature has made the following private observation on this situation:

"The tidal wave that brought Roosevelt into the White House is still on. Hard headed business men throughout the country appear to feel that the thing to do is to try

out the Roosevelt ideas. They admit that many of them may go wrong but that the very fact that there is action at the White House will do more good for the country in the end than would a safe and sure policy."

In Congress there are keen observers who will discuss political problems without bias. They estimate a political situation just as a neutral would estimate a military problem or a baseball expert would estimate the outcome of a World's Series.

Boiled down, the opinion of these cold-blooded observers as to how Roosevelt and the New Deal are working, is about this:

The President is a superb politician in the good sense of the word, and an excellent showman. When he came into the White House, the situation was made to order for him. He grasped the opportunity with a bold move to get as much power as possible into his hands while his popularity made opposition in Congress futile. With the passage of two or three more pieces of legislation he will have all the power he needs. He will get these remaining pieces of legislation through Congress without serious trouble.

But, to quote a popular phrase:

"Now that he's got it what's he going to do with it?"

It is at this point that political observers like to begin their estimating.

In the President's favor, is the opinion that he has excellent political judgment and courage and the politician's ability to shift ground quickly. Also, his pleasing individuality and manner are great assets.

On the doubtful side is the question as to whether the Roosevelt administration is equipped to handle the problems it is faced with. Bluntly put, there is still a question in the minds of the unbiased as to whether President Roosevelt, able politician though he is, is enough of a statesman to carry out the program he has announced.

So far he has had nothing more than paper opposition. How will he perform when the going gets rough?

As this is being written, a test is on over veterans' allowances. In the first clash the President has given ground to the extent of increasing those allowances by 25 per cent over the amount he fixed when he originally cut those allowances, but this was declared not acceptable by the pro-veteran element in Congress, and the final outcome of the clash is in doubt.

Speculation as to how long Roosevelt will hold his advantage over Congress is interesting. The answer to that question in the minds of the experts hangs on how long his popularity with the country holds. Even after he has doled out the patronage he will be able to control Congress provided the country is with him.

He can hammer Congress into line by the simple expedient of going on the radio and informing the American public of the situation. If they still approve of him the American public will inform Congress directly of that approval, and Congress will take the hint.

There necessarily follows speculation upon how long the Roosevelt popularity will last. On that score you may rake Washington with a fine toothed comb and uncover all the unbiased critics, and you will not find one who will venture a prediction. They will tell you that it all depends upon how the various phases of the Rooseveltian "New Deal" work out and they will defy any living man to make an accurate estimate of that factor.

One real test, it is generally believed in Washington, will come on the dollars and cents cost to the tax payer of the various Government-aid projects—reforestation, farm aid, publics works, unemployment aid, financial aid to states, to farm owners and home owners, the guarantee of bank deposits and the various other items taken care of out of the public Treasury.

If the business recovery card of the New Deal takes a trick and the Agricultural Relief card takes another, those backing the "New Deal" will feel they have won the game. They admit that these two programs will be expensive from a financial standpoint, but they figure that if general prosperity returns the tax payers will be willing to pay their taxes.

The other test, according to the political guessers, will involve the personnel President Roosevelt has called to his aid.

For the most part they are new comers in national public life. Up to date there has been no way to estimate their caliber or lack of it. Unless he has a good corps of assistants, a President is forced to do the job alone, and the job is too big for any one man. On their early showing some of the President's assistants, from Cabinet officers on down, look good and some do not. That is the best the experts can say at this time.

Under the vast appropriations that have been made, the Administration has an immense amount of money to spend. How that money is spent will be an important element in its future success or failure.

That there will be a great deal of economy is doubted by men who have for years observed the growth of Government expenditures.

The passage of the Economy Bill, giving the President authority to consolidate or abolish Government bureaus in the interest of economy, was heralded as the immediate forerunner of great retrenchment. So far the veterans have been cut—at least those veterans whom the general public considers not entitled to much—and the salaries of Government employes have been cut 15 per cent. But this does not do the job. Recently intimations have come from the White House that the work of lopping off some Government activities and consolidating others will have to go slowly.

Both President Coolidge and President Hoover tried to get authority from Congress to reduce the Government Departments, but were unsuccessful. President Roosevelt received the desired authority but it is generally believed that he will find the job harder than he anticipated.

And then there are currency inflation and the forthcoming international economic and disarmament conferences. Nobody knows what will be the results of these two problems.

With Congress out of the way the President will have a free hand. Under the Lame Duck Amendment to the Constitution Congress, when it adjourns this session, will not convene until January, 1934. Much can happen between now and then to upset all the guesses of even the best informed political prophets.

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Progress Made by Major Legislation

From April 22, to June 6, 1933

Agriculture

The carrying out of those provisions of the Agricultural Adjustment Act (Title I) which have to do with Governmental efforts to improve agricultural conditions are entrusted to the Department of Agriculture.

Since the passage of the Act, the Secretary of Agriculture has been holding a number of informal hearings at which representatives of various agricultural elements have discussed with him the basis for future formal hearings. These formal hearings must be held, under the provisions of the bill, before the Secretary may put into effect the trade and crop control agreements authorized by the bill. The first formal hearing began on May 29, when the milk interests of the Chicago district appeared. As additional preliminary work to formal hearings of other groups, representatives of the Department are in the field gathering data. The administration of the Act, subject to the approval of the Secretary of Agriculture, is under the direction of an Administrator, George N. Peck, of Illinois.

The following statement on the provisions of Title I of the Act was issued by the Department of Agriculture on May 11:

"Several methods for bringing about an increase in rural buying power are provided for in the Act. Just what is to be done this season will not be known until after hearings are held by Secretary of Agriculture Henry A. Wallace.

"The alternative methods made possible by the Act are:

"(1) The Secretary of Agriculture may arrange with individual farmers to reduce their acreage or production by a specified amount, and to compensate them either by paying rentals or by making direct benefit payments. This would be immediate relief, with only the participating producers receiving the benefits.

"(2) By entering into marketing agreements with processors and others to reduce wasteful and price-depressing competition, excessive handling charges, and so on, the Secretary may bring about better prices to farmers.

"(3) Cotton growers who reduce their acreage at least 30 per cent can be given an option contract for an equivalent amount of cotton, from stocks now owned by the Federal government—more than two million bales. If cotton prices rise, the grower may have his optioned cotton sold, and take the profit. In no case would the grower be liable for losses incurred in holding this cotton. This plan may be used either alone, or in conjunction with rental or other benefits for land taken out of cultivation.

"Funds to pay rental and benefit payments would come initially from the Federal treasury. Subsequently, they would be derived from an adjustment tax levied on the first processing of the basic commodity.

"The basic commodities named in the Act are wheat, cotton, hogs, field corn, rice, tobacco, and milk and its products; but the Secretary may exclude from the operation of the Act any of these commodities if its inclusion would not further the purpose of the Act."

On March 27 the President, acting under the authority granted him by Congress in the Economy Bill, (H. R. 2820, Pub. Law No. 2) issued an executive order coordinating the Government's farm credit agencies under a new head, to be known as the Farm Credit Administration. This order went into effect on May 27, when Henry Morgenthau, Jr., of New York, who had been chairman of the Federal Farm Board, became Governor of the Farm Credit Administration.

On May 12, the President approved the Emergency Agricultural Relief Bill, (H. R. 3835, Pub. Law No. 10) which provided various funds for loans to farmers, the money to be provided by the issue of $2,000,000,000 worth of long term tax-exempt 4 per cent bonds.

In announcements recently issued, Mr. Morgenthau has described the purposes and operations of the new Farm Credit Administration as follows:

Five separate and distinct Governmental agencies have in the past been handling or supervising the granting of agricultural credits. These agencies include the Federal Land Banks, the Federal Intermediate Credit Banks, the Department of Agriculture, the Reconstruction Finance Corporation, and the Federal Farm Board. The executive order transfers all Governmental functions having to do with farm credit from other branches of the Government to the Farm Board. The Board itself, however, is abolished and in its place is substituted the Farm Credit Administration, which will have a single head, or Governor, who will be responsible directly to the President. The Farm Loan Board, which governs the system of Federal Land Banks and Federal Intermediate Credit Banks and which supervises also the operations of the Joint Stock Land Banks, is also abolished and the administrative officer, the Federal Farm Loan Commissioner, who has heretofore exercised general supervision over these land and credit banks, is transferred to the Farm Credit Administration.

From the Department of Agriculture are transferred the Crop Production Loan Office and the Seed Loan Office and all functions relating to farm loans.

From the Reconstruction Finance Corporation is transferred the system of Regional Agricultural Credit Corporations, established in the twelve Land Bank regions for the purpose of making emergency loans to farmers.

From a central administrative standpoint it is evident that there has been a multiplication of records and a competition in service, since in a great many cases two or more, and in some instances all five of these Governmental agencies have had to deal with the same set of facts in transacting business with borrowers. From the borrower's standpoint the situation has been even more inconvenient and in more than one instance nothing short of tragic. Without expert advice he has not known where to go to get the service he needs and seeks and he has

been compelled to deal with many agencies and with many officers of the Government at widely separated locations, when he might with far greater satisfaction to all concerned have transacted his business in one office.

The executive order does not mean the creation of a new form of credit to the farmer. It does not create any new class of loans. It does, however, aim to establish a new and better form of credit service by making it possible to deal far more speedily with each individual application.

The creation of any new class of loans or special provision for refinancing to meet the needs of the present acute crisis in farm debts will depend upon action by the President and the Congress. The Farm Credit Administration will be available to carry out any new duties entrusted to it.

The Government's present credit service to the farmer is of four general kinds: Land mortgages loans for a long period and short-term credit for production needs to individual farmers, and both long and short-term credit to farmers' cooperative organizations to assist them in a more efficient merchandising of their products. The oldest of these services is the mortgage loan system of the Federal Land Banks and the Joint Stock Land Banks, created by Act of Congress in 1916 as the result of a Congressional investigation of farm credit systems in operation in other lands. The Joint Stock Land Banks are private institutions under Government supervision. The Federal Land Banks, however, are an agency of the National Government operating on a cooperative basis through subsidiary farm loan associations, to the capital stock of which borrowers subscribe. They lend money on the security of first mortgages on farm lands and with the the mortgage as security they sell bonds to provide further loan capital. The capital stock of these banks is in part subscribed by the Government.

Short-term credit to individual farmers is furnished by three different Governmental agencies. The first of these is the system of Federal Intermediate Credit Banks, of which there are twelve, one in each of the Federal Land Bank regions. Each has a capital of five millions of dollars, subscribed by the Government. They do not make loans direct to farmers but rediscount the notes of farmers on which loans have originally been made by credit corporations or by banks. They also make loans to cooperative marketing organizations on the security of warehouse receipts for agricultural products and in this way come into close relation with the operations of the Federal Farm Board, which makes merchandising and facility loans to cooperative organizations. Their loan funds are largely provided by the sale of their debentures, which have been issued at rates as low as two per cent, enabling the credit banks to discount farm paper at rates as low as three per cent.

Other short-term loans of the Government are direct to the farmer and of an emergency character. Of this nature are the crop production loans of the Department of Agriculture, which began in 1921 but with a special relief appropriation of one and one-half millions to furnish funds for seed to farmers in five northwestern States afflicted by drought. Loans in four later years, up to 1931, by the Department were of a similar emergency character, to deal with distress caused by storms, floods and drought. The maximum of these loans up to 1930, was six million dollars, but, in 1931, general distress caused by drought affecting most agricultural States in the Union resulted in emergency appropriations totaling sixty-seven million dollars. Last year with the cumulative effects of the depression and continued low prices for farm products bearing heavily on all farmers, distribution of emergency relief funds provided by the Reconstruction Finance Corporation was made on a nation-wide basis to the extent of approximately sixty-four million dollars. Advances for this year up to ninety million dollars have been authorized.

A further form of emergency credit is that of the Regional Agricultural Credit Corporations, organized by the Reconstruction Finance Corporation, which up to March 21 had made direct loans to farmers for this year's operations amounting to approximately eighty million dollars.

The Federal Farm Board is the youngest of the agencies of the Government designed for permanent operation in assisting farmers with their credit and marketing problems. Created in 1929, its major purpose is to promote profitable and orderly marketing of agricultural products by giving advice to cooperative organizations and by making loans for educational, facility and merchandising purposes. The executive order of the President continues these activities, but it expressly abolishes the experiment of stabilization, by buying and withholding from the market large quantities of agricultural products, which has proved immensely expensive to the Government.

The work of consolidating all of these agencies into one represents a formidable task of reorganization. It will mean the grouping of central offices, the perfection of a new administrative organization and the establishment of a consolidated system of regional offices. It is my belief, however, that the job is well worth doing. It will mean for the farmer and the farmers' organizations that they need no longer be in doubt as to where to apply for any form of loan issued or supervised by the Federal Government. Each farmer will be able to go or write to one branch office of the consolidated system and learn speedily for what class of loan he is eligible and may be sure that his application will be placed, without delay, in the hands of those who have the authority to pass on it. He need not suffer the vexation of being referred from one agency to another, at the sacrifice of time, which may mean to him the difference between success and failure.

I have had a great many letters and telephone calls which have shown me that many who want to obtain loans or to find out whether they are eligible for loans don't know where to write for the information. The answer is very simple. Don't write to Washington. It is not necessary to do that. Write to the Federal Land Bank in your district. There are twelve of these banks and there is one near enough to you so that your letter will reach it overnight in most cases.

These banks are located in Springfield, Mass.; Baltimore, Md.; Columbus, S. C.; Louisville, Ky.; New Orleans, La.; St. Louis, Mo.; St. Paul, Minn.; Omaha, Nebr.; Wichita, Kans.; Houston, Texas; Berkeley, Calif.; Spokane, Wash.

Farmers will save time and expense by writing direct to the Federal Land Banks of their respective districts, instead of writing to Washington.

Banking

As the DIGEST goes to press the Glass-Steagall Banking Reform bill is in conference where the differences between the bill as originally passed by the House on May 23 and as passed by the Senate, with amendments, on May 25.

The bill passed by the House was H. R. 5661, introduced by Representative Henry B. Steagall, Ala., D. The Senate struck out all of the Steagall bill except the enacting clause and substituted S. 1631, introduced by Senator Carter Glass, Va., D. The Glass-Steagall bill is the banking reform bill which has been before Congress for several years and is designed generally to improve the Federal Banking laws and to go as far as possible by legislation, to avoid future financial dangers.

The differences between the House and Senate bills are not vital and it is expected that the major features of the legislation will be easily agreed upon by the conferees.

The principal provisions of the bill are:

The creation of a Federal Bank Deposit Insurance Corporation which would insure, after July 1, 1934, time and demand deposits of all member banks and all banks applying for membership in the Federal Reserve system. The insurance will cover 100 per cent of the first $10,000 of individual deposits; 75 per cent of the next $40,000 and 50 per cent of any amount above $50,000. Under an amendment offered by Senator Vandenberg, Mich., R., the period between July 1, 1933, and July 1, 1934, is covered by a provision by insurance on deposits up to $2,500 in Federal Reserve member banks and State banks certified by State authorities to be solvent.

The Corporation to administer the deposit insurance will have assets by approximately $2,000,000,000 to guard the deposits and to expedite liquidation of closed institutions, the capital to be furnished by subscriptions of $150,000,000 from the Federal treasury, together with half of the reserves of the Federal Reserve banks and 5 per cent of the deposits in member banks.

Private banks accepting deposits must subject themselves to Federal examination, and payment of interest on demand deposits is prohibited.

Depositors in Postal Savings institutions must give 60 days' notice of withdrawal of deposits and no interest on Postal Savings deposits is allowed for a period of less than 60 days.

The Federal Reserve Board is authorized to limit the interest on time deposits. No National Banks may have more than 25 directors.

Morris Plan and mutual savings banks are admitted to the Federal Reserve system.

Interlocking directorates between private and commercial banks are prohibited.

The Federal Reserve Board is empowered to curb the use of reserve credit for speculation by suspending credit facilities to any bank misusing them.

Loans by member banks of the Federal Reserve system to their officers is forbidden.

Member banks must divorce their security affiliates within one year.

National Banks are permitted to engage in state-wide branch banking in those States which permit their state institutions to do so.

The Federal Reserve Board is authorized to remove from office member bank officials who insist upon practices in violation of the law or regarded by the Board as "unsafe and unsound."

Emergency Relief
(Aid to States)

On May 12 the President signed H. R. 4606, the Lewis-Wagner relief bill, authorizing the loan of $500,000,000 by the Federal Government to state and municipal officials for unemployment relief. In signing the bill the President issued the following statement:

"I want to make it very clear to citizens in every community that the bill I have just signed, authorizing an appropriation of $500,000,000 of Federal funds for unemployment relief, does not absolve States and local communities of their responsibility to see that the necessities of life are assured their citizens who are in destitute circumstances.

"The bill in effect is a challenge to Governors, Legislatures and local officials to stimulate their own efforts to provide for their own citizens in need.

"For these and other good reasons citizens who are able should voluntarily contribute to the pressing needs of welfare services.

"The giving of life's necessities by the Government, in ratio to contributions made by States and local communities, should lead to the giving of generous contributions to community chests and welfare organizations throughout the country.

"The principle which I have on many occasions explained is that the first obligation is on the locality: If it is absolutely clear that the locality has done its utmost but that more must be done, then the State must do its utmost. Only then can the Federal Government add its contribution to those of the locality and the State."

Under the provisions of the bill the $500,000,000 fund will be raised by increasing the outstanding issues of Reconstruction Finance Corporation obligations.

Under the new law a Federal Emergency Relief Administrator will be created who will have authority to create the necessary staff, with a limit on administrative expenditures of $350,000 during the two years in which the law is operative.

Half of the $500,000,000 fund is authorized for grants to States in the ratio of one-third of the amount expended by such States for relief. After Oct. 1, 1933, this restriction will be removed.

The balance of $250,000,000, plus any amounts remaining from the first half of the fund, will be used for grants to States where the combined Federal, State and local funds are inadequate. Additional grants are authorized for those in distress who have no legal settlement in any State or community and this also applies specifically to cooperative and self-help associations for the barter of goods and services.

Administrator's employes will be outside civil service classification. None of their salaries may exceed $8,000 a year.

The District of Columbia, Alaska, Hawaii, Puerto Rico and the Virgin Islands are included in the terms of the law.

Home Loan Bill

The Home Loan bill, H. R. 5240, introduced by Representative Steagall, Ala., D., Chairman of the House Committee on Banking and Currency, passed the House on April 28, following a message from President Roosevelt on April 3 (See Digest for April, 1933) requesting its passage.

The provisions of the bill as passed by the House are as follows:

Repeals section 4 (d) of the Federal Home Loan Bank Act (providing for direct loans to home owners by Federal Home Loan Banks) but does not otherwise alter functioning of the Federal home loan banking system.

Directs the Federal Home Loan Bank Board to organize a Home Owners Loan Corporation, authorizes an appropriation of $200,000,000 for its capital, and authorizes it to issue $2,000,000 worth of bonds, maturing in not exceeding 18 years, bearing interest at 4 per cent per annum, the interest guaranteed by the Government.

The Corporation is authorized to exchange its bonds for mortgages on homes and to pay in cash, in connection with such exchange, assessments, taxes and other incidentals, provided the total advance does not exceed 80 per cent of the value of the home. The Corporation is then to carry or refinance the home owner's indebtedness at the rate of 5 per cent per annum, the indebtedness to be paid off in not exceeding 15 years.

It is estimated that the cost to the home owner of repayment will be approximately $8 per month per $1,000 and provision is made for extension of time when necessary.

Home owners whose homes are unencumbered may obtain cash from the Corporation to pay taxes, assessments and necessary repairs, but no provision is made for cash to take up mortgages or to make new loans.

The provisions of the bill apply to homes whose value does not exceed $15,000. No loan of over $10,000 may be made. A home must be used by the owner as his home or held as his homestead.

Under the bill the Federal Home Loan Bank Board may charter Federal Savings and Loan associations in communities not sufficiently served by home loan institutions. These associations are intended to be permanent and to promote community thrift. An appropriation of $250,000 is authorized for their promotion and development. The Secretary of the Treasury is authorized to subscribe to $100,000 worth of preferred stock in these associations, provided the local public has put in cash an amount equal to that subscribed by him. The design of this provision is to raise from private savers and from borrowings from the Federal Home Loan Bank system $3 for every $1 subscribed by the Secretary of the Treasury to lend on homes through the local associations.

Investment Securities

On May 27 the President signed the Investment Securities Control bill, granting to the Federal Trade Commission regulatory powers over investment securities offered for sale in interstate commerce. The Act takes effect forty days from the date of approval.

The six main features of the act are registration with the Commission of information about forthcoming security issues, supervision of the advertisements of securities, power on the part of the Commission to issue stop orders against any issue, exemption of certain Federal, State and municipal issues, personal responsibility of officers for misinformation concerning their security offerings, and four specific remedies in case of fraud.

Behind the act is the basic intention of informing the investor of the facts concerning the securities to be offered for sale in interstate commerce. In addition the act is intended to protect investors against fraud and misrepresentation.

Muscle Shoals

On May 18 the President signed the Muscle Shoals bill, S. 1272, which had been finally passed by Congress on May 17. The bill creates a corporation to be known as "The Tennessee Valley Authority" which will have general supervision over the entire project. The authority is a board of three members, appointed by the President. On May 19 the President announced the appointment, as chairman of this board, of Dr. Arthur E. Morgan, president of Antioch College, Ohio, who has had wide practical experience with conservation and flood control projects. The Authority is authorized to issue $50,000,000 worth of 3½ per cent bonds to finance its operations.

In addition to the operation of the Muscle Shoals power plants and fertilizer production plants, the project involves land reclamation, reforestation, flood control and industrial decentralization on a vast scale.

Railroads

On May 4 the President sent the following message to Congress:

The steam railways still constitute the main arteries of commerce in the United States. At this time, however, available traffic is not sufficient profitably to utilize existing railway facilities and the supplementary facilities provided by new forms of transportation.

Our broad problem is so to coordinate all agencies of transportation as to maintain adequate service. I am not yet ready to submit to the Congress a comprehensive plan for permanent legislation.

I do believe, however, that three emergency steps can and should be taken at this Special Session of the Congress.

First, I recommend the repeal of the recapture provisions of the Interstate Commerce Commission Act. The Commission has pointed out that existing provisions are unworkable and impracticable.

Second, railway holding companies should be placed definitely under the regulation and control of the Interstate Commerce Commission in like manner as the railways themselves.

Third, as a temporary emergency measure, I suggest the creation of a Federal Coordinator of Transportation who, working with groups of railroads, will be able to encourage, promote or require action on the part of carriers, in order to avoid duplication of service, prevent waste, and encourage financial reorganizations. Such a Coordinator

Continued on page 189

The White House

Complete Record of Important Official Action by President Roosevelt from March 4 to June 6

Messages to Congress

March 9

Recommending special legislation granting the President broad powers to deal with the banking crisis.

Passed and approved March 9, Public Law, No. 1.

March 10

Recommending legislation giving the President authority to reduce government expenditures.

Passed March 16, approved March 20, Pub. Law, No. 2.

March 13

Recommending the passage of the beer bill.

Passed March 20, approved March 22, Pub. Law, No. 3.

March 16

Recommending the passage of agricultural relief legislation, farm mortgage relief and currency control.

Passed May 10, approved May 12, Pub. Law, No. 10.

March 21

Recommending legislation to aid unemployment by the creation of a conservation corps to work in national forests.

Passed March 30, approved March 31, Pub. Law, No. 5.

March 29

Recommended legislation for Federal supervision of traffic in investment securities.

Passed May 23, approved May 27, Pub. Law, No. 23.

April 3

Recommending legislation for the refinancing of rural debts and mortgages. Included in Agricultural Relief bill.

Public Law, No. 10 (see above).

April 10

Recommending legislation for the development of the Tennessee Valley and the Muscle Shoals water power project.

Passed May 17, approved May 18, Pub. Law, No. 17.

April 13

Recommending legislation for the refinancing of home mortgages.

Passed House April 28, reported to Senate May 23.

May 4

Recommending the adoption of a national transportation policy.

Passed Senate May 27.

May 16

Informing Congress of the message addressed by the President to those nations participating in the Disarmament Conference and World Economic Conference, and giving his reasons for sending that message.

No action by Congress involved.

Executive Orders

March 10

Putting into effect regulations under the Emergency Banking Act.

Putting into effect regulations concerning conservators for state banks, members of the Federal Reserve System.

March 27

Directing the reorganization of the Agricultural Credit Agencies of the Government.

March 28

Reducing the salaries of Government employees 15 per cent.

March 31

Five orders putting into effect various regulations affecting veterans' allowances.

April 5

Transfer of Naval surgeons and dentists to duty with the Conservation Corps.

Forbidding the hoarding of gold.

April 10

Authorizing regulations for the handling of the funds for the Conservation Corps.

April 12

Providing for cash allowances for the Conservation Corps.

April 20

Placing an embargo upon the shipment abroad of gold.

April 25

Ordering the recodification of the nationality laws.

May 8

Providing for administration regulations for the Conservation Corps.

May 11

Authorizing the expenditure of $25,000 for the enrollment of veterans in the Conservation Corps.

May 12

Providing for the enlistment of Indians in the Conservation Corps.

May 13

Transferring Naval surgeons detailed to the Conservation Corps temporarily to the Army.

May 20

Authorizing the purchase of certain lands for the use of the Conservation Corps.

Messages *Cont'd*

May 17

Recommending the passage of legislation for industrial recovery, a program of public works to aid employment and for the raising of revenue to carry out the public works program.

Passed House May 26, reported to Senate June 5.

Orders *Cont'd*

Extending the provisions of Unemployment Relief Act (Conservation and Forestry) to county and municipal parks.

May 21

Annulling the Executive order of May 11 relative to funds for the enrollment of veterans in the Conservation Corps.

Providing for Conservation Corps work on Indian reservations.

May 31

Assigning Naval medical and dental officers to duty with the Conservation Corps.

Proclamations

March 5

Calling Congress to meet in extra session on March 9.

March 6

Declaring a national Bank Holiday.

March 9

Extending the Bank Holiday.

Declaring, under existing law, the appointment of a Director General of Railroads.

March 15

Appointing William H. Woodin, Secretary of the Treasury, to be Director General of Railroads.

March 31

Proclaiming May 1 to be observed as Child Health Day.

April 3

Decreasing the tariff duty on agricultural hand tools.

May 2

Proclaiming May 14 to be observed as Mothers' Day.

May 20

Proclaiming May 22 to be observed as Maritime Day.

Railroads *Cont'd*

should also, in carrying out this policy, render useful service in maintaining railroad employment at a fair wage.

The experience gained during the balance of this year will greatly assist the Government and the carriers in preparation for a more permanent and a more comprehensive national transportation policy at the regular session of the Congress in 1934.

FRANKLIN D. ROOSEVELT.

A bill, S. 1580, to carry out the President's recommendations was introduced on May 4 by Senator Joseph T. Robinson, Ark., D. It was referred to the Senate Committee on Interstate Commerce, reported on May 22, and passed by the Senate on May 27. On June 2 it was reported by the House Committee on Interstate and Foreign Commerce and passed by the House on June 5, with amendments and sent to conference.

Taxes

As this issue of the DIGEST goes to press the tax question has not been disposed of by Congress.

Before it is the problem of raising the money for the $3,300,000,000 public works provisions of the Industrial Recovery Bill, and possible additional taxes in connection with veterans' allowances.

The Students' Laboratory

☆

The Students' Question Box

Solutions of Problems Involving the Practical Application of the Theory of the American Government

Articles on the Operation of the Federal Government

Replies to Queries

Q. Under the present laws, the cabinet members are chosen by the President from the country at large. Would it not be better to have these members chosen by the President from Congress as they are chosen in England from Parliament? C. C.

A. The Constitution of the United States, Article 1, Section 6, paragraph 2, says:

"No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office."

The thought back of this is based on the establishment, in the very beginning, of a tri-partite form of Government for the United States—Legislative, the branch to make the laws; Executive, the branch to administer the laws and the Judicial, the branch to interpret the laws—and to keep these three branches separate.

Therefore, under our Constitution, it would be impossible for the President to have as members of his Cabinet men or women who were members of either House of Congress.

He frequently—almost invariably in recent years—picks men from the Senate or House for the Cabinet, but if they accept, they promptly resign from Congress.

President Roosevelt picked three, Senator Walsh of Montana; Senator Hull of Tennessee and Senator Glass of Virginia. Senators Walsh and Hull accepted and announced their resignations from the Senate to take effect on March 4. Senator Glass declined. Senator Walsh died before March 4.

After Senator Glass declined, the President asked the other Virginia Senator, Senator Claude A. Swanson, to serve as Secretary of the Navy. Senator Swanson accepted.

Thus, instead of having three former Senators in his Cabinet, as he desired, President Roosevelt has two, Secretary of State Hull and Secretary of the Navy Swanson.

Q. How much acreage do the Capitol grounds cover? M. R. P.

A. In 1853, according to a report of Randolph Coyle, Civil Engineer, the Capitol grounds covered 29.32 acres, but have repeatedly been added to.

At this time further enlarging of the Capitol grounds is in progress. The grounds will contain, with the area included in the office buildings for the use of the Senate and the House of Representatives, more than 120 acres.

The grounds were originally a part of Cern Abby Manor, and at an early date were occupied by a subtribe of the Algonquin Indians known as the Powhatans, whose council house was then located at the foot of the hill, where the Peace Monument now stands.

Q. What are the dimensions of the Capitol Building? L. R. P.

A. This building is situated on a plateau 88 feet above the level of the Potomac River and covers an area of 153,112 square feet, or approximately 3½ acres. Its length, from north to south, is 751 feet 4 inches; its width, including approaches, is 350 feet; and its location is described as being in latitude 38° 53′ 20.4″ north and longitude 77° 00′ 35.&″ west from Greenwich. Its height above the base line on the east front to the top of the Statue of Freedom is 287 feet 5½ inches. The dome is built of iron, and the aggregate weight of material used in its construction is 8,909,200 pounds.

The greatest exterior diameter of the dome is 135 feet 5 inches. The rotunda is 97 feet in diameter, and its height from the floor to where the dome closes in at the base of the lantern is 180 feet 3 inches.

The Capitol has a floor area of 14 acres, and 430 rooms are devoted to office, committee, and storage purposes. There are 14,518 square feet of skylights, 679 windows, and 550 doorways. The dome receives light through 108 windows, and from the architect's office to the dome there are 365 steps, one for each day of the year.

How Uncle Sam's Laws Are Made

Series by Norborne T. N. Robinson

The following article is the twelfth of a series of consecutive articles in which all phases of House and Senate procedure will be described. The articles are being prepared with the aid of the leading parliamentary authorities at the Capital, including members of both the Senate and the House and officers of those bodies.

"Special Rules" in the House of Representatives

Much of the rapidity with which the House of Representatives has been passing important legislation since the beginning of the present first session of the Seventy-third Congress is due to the system of "special rules" or "special orders" as provided for in the House Rules.

Rule XI of the House covers the powers and duties of the Committees. Section 35 of this rule states:

"All proposed action touching the rules, joint rules, and order of business shall be referred to the Committee on Rules."

The Committee on Rules is one of the most powerful Committees of the House. In some respects it is the most powerful since it is, in effect, the operating agency of the leaders of the majority party in the House.

The committee was originally created in 1789 to consider questions involving the making or changing of the House rules, but later it was given authority to report special orders providing times and methods for the consideration of special bills or classes of bills, thereby enabling the House, by a majority vote, to pass legislation, instead of being forced to rely on a suspension of rules, which requires a two-thirds vote.

The Muscle Shoals bill, passed by the House on April 25, last, furnishes an excellent example of the working of a "special rule." This measure, as was the case with several other Administration measures that preceded it during the current session, was looked upon by the Democratic leaders of the House as one which must be considered and disposed of promptly. As a normal piece of legislation it would have gone on one of the House Calendars to await its turn for consideration. But it was considered too important to be left to that course. The leaders wanted it disposed of with as little delay as possible.

The Muscle Shoals bill had been reported from the committee on Military Affairs and was formally before the House. The Chairman of the Committee on Military Affairs, or the author of the bill could make a motion to suspend the rules and consider the bill. To suspend the rules means to abandon the regular procedure of the House,—to break the regular routine, for the sake of special action. In order to carry, however, this motion must have the support of two-thirds of the members present.

The Democratic leaders, while they knew they had a majority of the House for the passage of the bill, were not quite sure of a two-thirds vote. Their estimate of their strength showed that, while they had close to that number, the margin was narrow and that a motion to suspend the rules might win or lose by two or three votes. Because of this uncertainty they chose to work through the Committee on Rules.

Accordingly Representative McSwain, S. C., D., Chairman of the Committee on Military Affairs, introduced a resolution, H. Res. 111. Here is the full text of the resolution:

Resolved, That immediately upon adoption of this resolution the House shall proceed to the consideration of H. R. 5081, and all points of order against said bill shall be considered as waived. That after general debate, which shall be confined to the bill and shall continue not to exceed 6 hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Military Affairs, it shall be in order for the chairman of the Committee on Military Affairs by direction of that committee to offer amendments to any part of the bill. If there be no such amendments offered by the chairman of the Committee on Military Affairs, then the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit.

This resolution was referred to the Committee on Rules which promptly reported it to the House. On April 22 the resolution was called up by Representative O'Connor, N. Y., D., a member of the Committee on Rules, who asked for its adoption. After one hour's debate on the McSwain resolution Mr. O'Connor called for a vote and, without a roll call, the House adopted the resolution and began consideration of H. R. 5081, the Muscle Shoals bill.

When the House adjourned at 3.27 p. m. on April 22, which was Saturday, 1 hour and 49 minutes of the time for debate on the bill had been consumed. Thus, when the House met on Monday, April 24, there were 4 hours and 11 minutes left for debate. After this time had been used up, the House, under the provisions of the special rule quoted above, considered various amendments which had been offered. It was then agreed that a vote should be taken on the following day.

Consequently, as soon as the House met on April 25, Representative John J. McSwain, Chairman of the Committee on Military Affairs who had charge of the bill, moved the previous question and a vote was ordered. The bill was passed by a vote of 306 to 91.

Thus, as it turned out, the Democratic leaders could have mustered the necessary two-thirds vote to put the Muscle Shoals bill through under suspension of the rules. The special rule, however, was just as effective and could be put into operation with a majority vote.

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(*Continued from page 181*)

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